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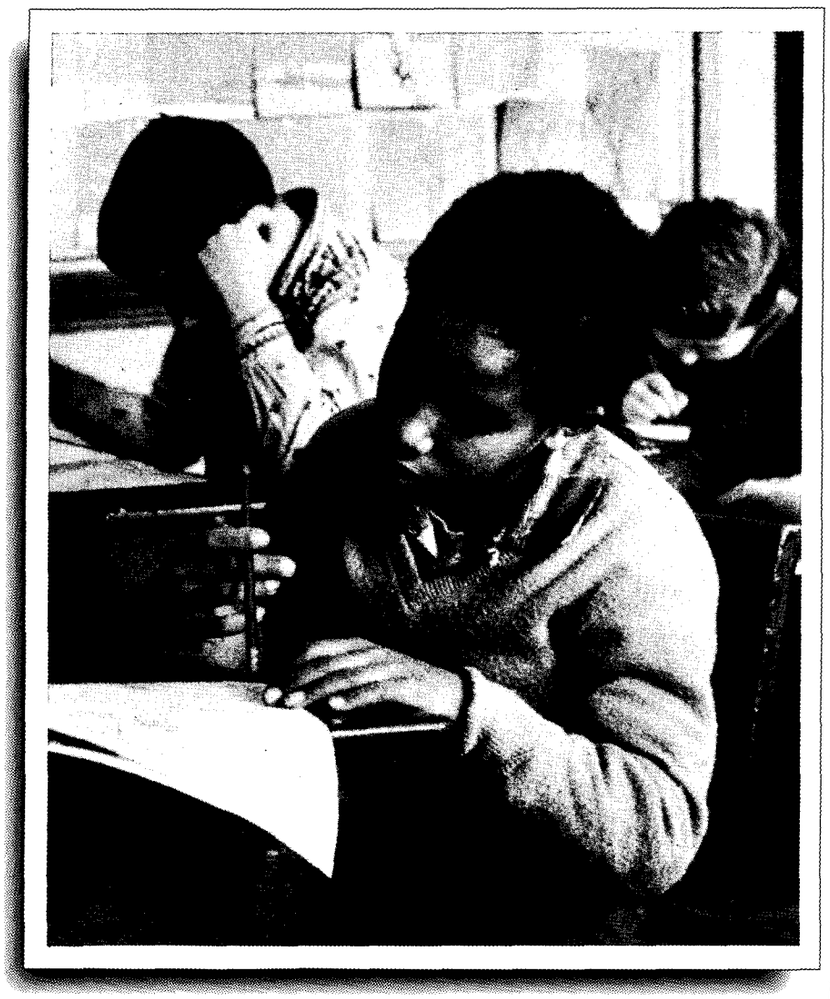

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JANUARY 1992
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California JOURNAL

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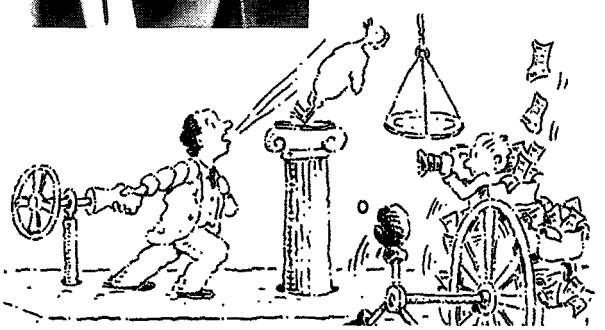

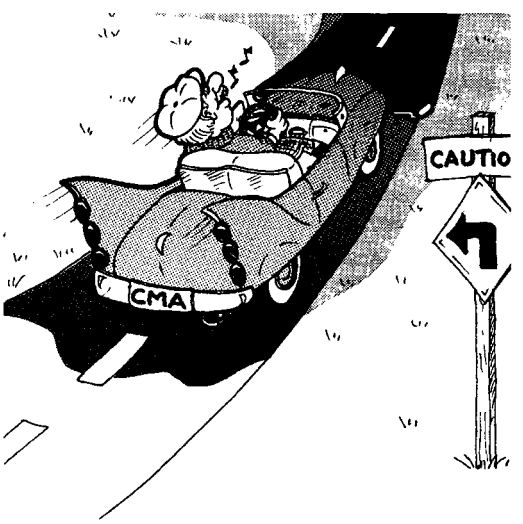

Publisher, Thomas R. Hoeber; **Editor,** Richard Zeiger; **Managing Editor,** A.G. Block; **Circulation,** Susan Franklin; **Production Coordinator,** Roberta-Anne Kaminski; **Art Staff,** Patricia L. Tweten, Merijune Tokuno; **Staff,** Lyn Collins, Theresa Page, Hope Tuttle; **Washington Correspondent,** Larry Liebert; **Intern,** Maaria Khamis.

Advertising Representative: Media Marketing (916) 452-3242

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CALIFORNIA JOURNAL is a non-partisan, non-ideological analysis of California government and politics established in 1970. The *Journal* is indexed in Public Affairs Information Service, New York Times Information Bank, Sage Urban Studies Abstracts, Urban Affairs Abstracts, and California Periodicals Index. *California Journal* (ISSN00081205) is published monthly. Subscription rates: Libraries and Government Agencies, $49.00; Corporations and Associations, $95.00; Special Individual rate, $32.00. Please add 7.75% sales tax to all orders. Address all inquiries to California Journal, 1714 Capitol Avenue, Sacramento, California 95814. Telephone (916) 444-2840. Copyright 1992 by Information for Public Affairs, Inc., Second class postage paid at Sacramento. POSTMASTER: Send address changes to CALIFORNIA JOURNAL, 1714 Capitol Avenue, Sacramento, CA 95814.

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UP FRONT

The last time it happened:

- Lyndon Johnson was preparing to run for his first full term as president; his Republican opponent was Barry Goldwater.
- U.S. involvement in Vietnam was limited to a handful of "advisors."
- Ronald Reagan was a political wanna-be.
- Pat Brown was governor of California.
- Dan Quayle was in high school.
- Michael Jordan was in diapers.

It was June 1964 — and no initiative appeared on the California ballot. It was the last time that political phenomenon happened in California.

Until June 1992.

For the first time in 28 years, the secretary of state's office reports, no statewide initiative has qualified for the June primary election ballot. This marks a remarkable come-down from 1990, when 17 initiatives went before voters.

A spokeswoman for the secretary of state, Melissa Warren, cited several reasons for the fall-off: lack of money; delays in circulating initiative petitions by special-interest groups waiting to see how the Legislature handles their issues; giving Governor Pete Wilson some breathing room.

And then there is the other reason — a growing public perception that the initiative process itself has been twisted beyond recognition by well-heeled special interests, causing those special interests to grow wary of investing a lot of money in campaigns that may run afoul of the public mood.

Warren, however, says the "short ballot" may be short-lived. She expects another bumper crop of initiatives to surface in November 1992. Seventeen petitions currently are in circulation, with several more being certified by the attorney general's office.

The only initiative to come close to qualifying for the June ballot was a forestry reform proposal sponsored by a coalition of environmentalists and backed financially by Hal Arbit, a wealthy financial advisor from Hillsborough (see "Sierra discord," *CJ*, December 1991). The group, which said it had gathered the 700,000 signatures needed to qualify for the ballot, decided to withdraw the initiative after reaching an agreement with the Wilson administration to pursue the reforms legislatively.

Not that the June ballot will be completely free of propositions; the Legislature still may cough up a few bond measures or other constitutional amendments.

David Roberti, the Senate pro-tem, needs to study up on the geography of his home state. Roberti, a city fella from Los Angeles, recently responded to Governor Pete Wilson's call for a special legislative session (to deal with the growing state budget deficit) by hurumphing that the Senate would come back when "it snows in Death Valley." Republican Senator Bill Leonard of Redlands, gleefully ready to help the pro tem with his lessons, informed Roberti — and the rest of us in a press release — that at the time of Roberti's statement, there *was* snow in Death Valley and that it had been on the ground there since November.

California may be on tough times, but until last month we could always point with pride to our Triple-A credit rating. No more. Standard and Poors dropped the state to Double-A status last month, a decision that could cost the state millions of dollars in added interest when it comes time to sell bonds. The rating agency noted that, even if the state manages to get a handle on what is fast becoming a chronic money shortage, it will be a long time before the California economy and tax structure is strong enough to weather some future economic downturn.

Dennis Rice, a Democrat running for Congress from the new 6th District (Sonoma-Marin), came up with a novel — if somewhat dangerous — way to enhance his fund-raising. Seems Rice, a master long-distance swimmer who's conquered San Francisco Bay several times, tried to swim the Bay again not long ago. But two-thirds of the way across, the tides changed and the extra exertion caused Rice to cramp up. Hypothermia set in and he had to be pulled from the water. Although he recovered quickly, his perilous adventure made the front page of the *San Francisco Chronicle* and ABC-TV's overnight news. Rice's campaign guru — Paul Kinney of Sacramento — reports that the candidate's fund-raising subsequently doubled.

San Francisco Mayor Art Agnos managed to make a lot of enemies in a short period of time. Determined, blunt and at times overbearing, as a legislator Agnos' strong personality was tempered by his sense of humor and his ability to disarm potential opponents. But being mayor turned out to be less amusing than walking the halls of the state Capitol, and Agnos —after becoming a hero following the Loma Prieta earthquake two years ago — wore thin on the city's voters. Last month, he was turned out of office by former city police chief Frank Jordan. Politicians around the state are making much of the defeat. Some say it proves that liberal Democrats can no longer win, even in a liberal city like San Francisco. Others are saying it's a foreshadowing of what incumbents of any stripe can expect this election year. But no less an authority than Agnos himself doesn't see it that way. Said the ex-mayor: "What they said is, 'We don't want Art Agnos to continue.' And I can accept that."

"I like dreams of the future better than the history of the past."

— Thomas Jefferson

Come across a blurb lately that's nosy, newsy or smartalecky about California government, politics or politicians? Share it with the Journal. *We pay up to $25 for entertaining tidbits published in "Up Front." So, rush your items to Up Front, 1714 Capitol Avenue, Sacramento, CA 95814. Sorry, submissions cannot be returned.*

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ROSTRUM

Higher education

Your article on higher education (see "Higher education for all," *CJ*, December 1991) painted a bleak picture of the future for the state's public universities and community colleges. The article questioned whether the state will be able to continue its goal of providing higher education for every Californian in a time of tight budgetary constraints. The answer is simple: Of course it can, and it can do so without pouring more money into new campuses or expanding existing campuses.

California's goal to develop a top public higher-education system has been overwhelmingly successful. Many state public universities are considered among the premier universities in the country. But success has created a problem because it has increased demand for space at those universities. Much of this demand has come from those who choose to attend state schools even though they can afford to pay tuition at private institutions. As a result, taxpayers are subsidizing individuals who do not need to be subsidized.

There are at least two options that the state may take to ensure that all students have access to higher education. First, the state could base tuition levels on family income. Second, the state could increase tuition across the board and reduce outlays to the University of California and state university system (but not to community colleges). Savings generated by these reductions could be channeled into financial-aid programs to help students in need of assistance.

The goal of "higher education for all" can be achieved, but it will require that we decide which students to subsidize.

BOYD RUTHERFORD
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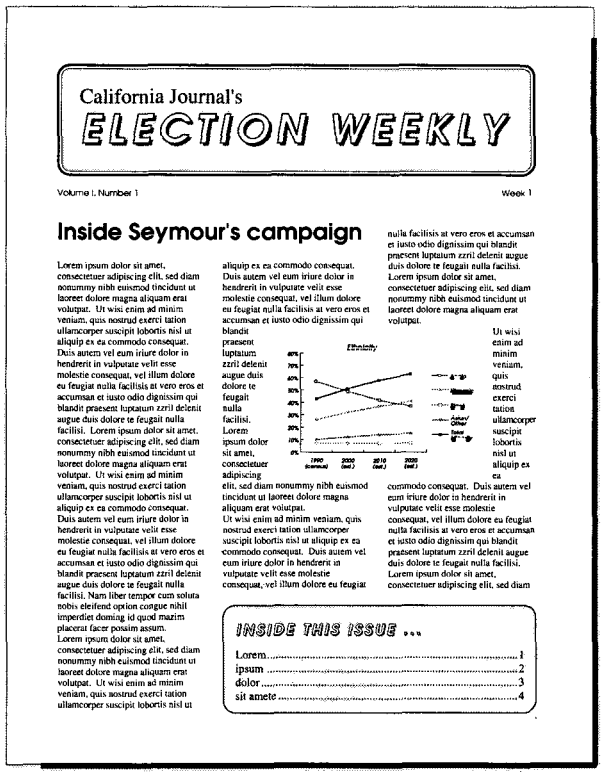
ELECTION WEEKLY

1992 Election Year Service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ELECTION WEEKLY

Volume I, Number 1 Week 1

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Ethnicity

INSIDE THIS ISSUE ...

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The 1992 elections in California will include 154 races for the Assembly, state Senate and Congress with more than 100 expected to be competitive. Court-drawn district reapportionment, term limits imposed by Proposition 140, and the unusual occurrence of two U.S. Senate races in the same year combine to offer voters more opportunities to vote meaningfully than at any time in this century.

Because of the sheer volume of races, *California Journal* is supplementing its regular extensive coverage of campaigns with a new, weekly newsletter that will provide even more information quicker than is possible in the *Journal* alone.

Election Weekly will be divided into two broad sections: ① brief reports on items of interest in the 154 races, including announcements of candidacies of unusual interest, appointment of campaign managers, special campaign activities and analyses of prospects in the various races; ② comprehensive lists of data as they become available, including physical descriptions of the new districts, voter-registration figures, ethnic composition, fund-raising and spending, lists of all candidates with addresses and other information, and much more.

Edited by Richard Zeiger and A. G. Block of the *California Journal*, **Election Weekly** will contain information available nowhere else and will be mailed to you First Class each week. ***Here's what you get:***

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Dan Lungren shakes up Justice

By Sigrid Bathen

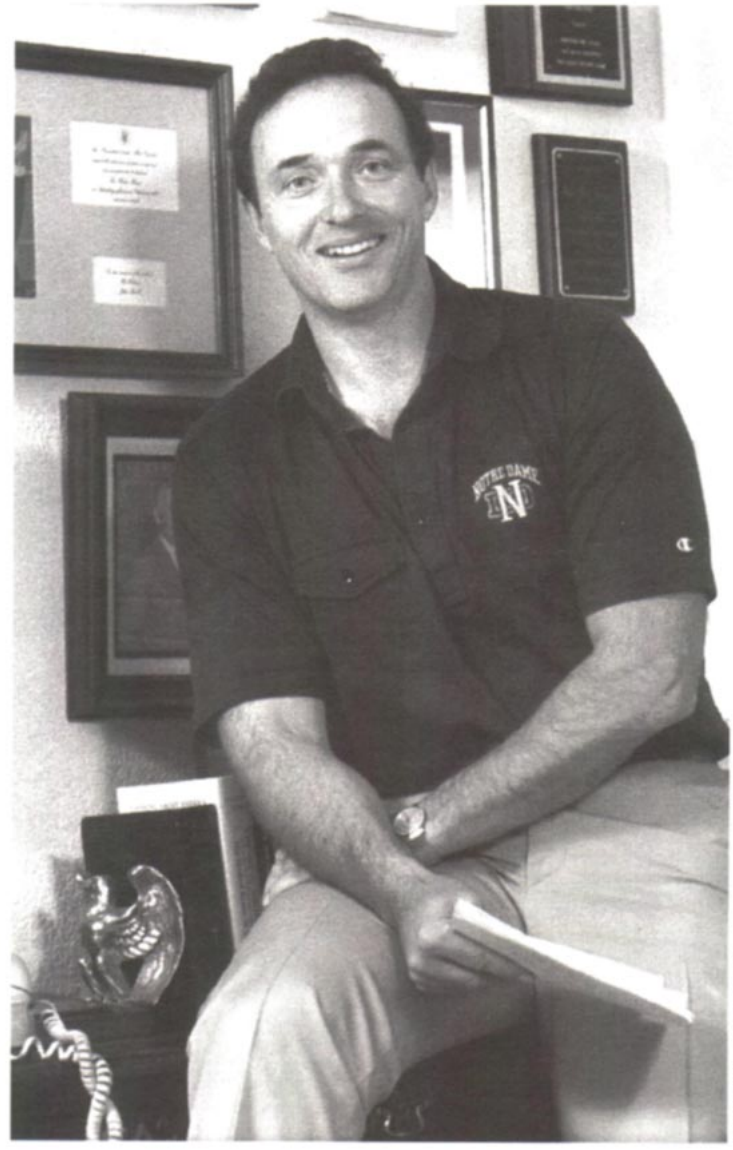

Photo by Rich Pedroncelli

"The attorney general touches the lives of Californians probably more than any other state office — with the possible exception of the governor. . .and I'm not even sure the governor should be excepted."
— Attorney General Evelle Younger

"A smart A.G. could practically take over the state from a dumb governor — if he had a mind to."
— Attorney General Robert W. Kenny

Dan Lungren does not merely walk into a room. As Jim Robinson, recently hired communications director for the California attorney general, puts it, his boss "bounds" into a room. The description is apt.

Robinson — longtime speech writer and public affairs director for reserved, low-key former Governor George Deukmejian — says the contrast between the two men (both of whom, he hastens to add, he holds in high esteem) is sometimes striking. Others say the contrast between Lungren and his immediate predecessor as attorney general — reserved, low-key, liberal Democrat John Van de Kamp — is also striking, in style as well as philosophy.

Employees in the sprawling, 3800-employee state Department of Justice that Lungren oversees are sometimes startled to see the new attorney general "bound" into their offices, just to say hello and shoot the breeze. Recently, Lungren dropped in at a small (eight employees) state forensics lab in Santa Barbara. "I don't know when they last saw an A.G.," Robinson mused.

"I've held meetings all over the state," said Lungren, "and it's as much good for me as for my employees, because they give me an idea of what's really important."

In Congress, where he served five terms (1979-89), the Long Beach Republican was

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Sigrid Bathen is a longtime Sacramento journalist who teaches journalism at California State University, Sacramento, and American River College. A Sacramento Bee *reporter for 13 years, she was press secretary to Attorney General John Van de Kamp from 1983-87 and has covered legal issues, including the attorney general's office, for* California Lawyer, *the American Lawyer Newspapers Group, and other publications.*

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known as a formidable, sometimes unpredictable, legislative combatant. He would prepare for the day's battles with a karate workout in the House gymnasium. One of Lungren's karate partners, another member of Congress, described Lungren's karate style: "They call him 'the bull' because he just attacks." (See *CJ*, August 1984.)

The son of the personal physician to former President Richard Nixon, the 45-year-old Lungren has been in or around politics for most of his life. In 1988, while serving his fifth term in Congress, he resigned from the House after being tapped by Governor Deukmejian to serve as state treasurer following the death of Jesse Unruh. Lungren lost a bruising partisan battle for legislative confirmation in part because the Democratic-dominated Legislature thought he would be too political and in part because they were afraid he would be an attractive candidate for still higher office. The experience may have helped galvanize Lungren's political determination, and he decided to run for attorney general the following year, winning an extremely close 1990 race — only after the absentee ballots were fully counted — against San Francisco District Attorney Arlo Smith.

Lungren

Running on a platform that was staunchly conservative, strongly pro-law enforcement and intensely anti-crime, Lungren took over one of the most important — and most politically high-profile — agencies in state government at a time of severe budgetary cutbacks. He has approached the job with typical Lungren verve, aggressively promoting key state and federal crime-control programs and rearranging the office — changes some critics say were done clumsily and tactlessly.

Lungren's first year as attorney general has not been without significant internal turmoil, some of it spilling into the press in a series of articles describing controversial personnel moves and a decision-making process that critics — mostly other lawyers in the attorney general's office — say sometimes excludes necessary expertise within the office.

As is his style, Lungren, who writes most of his own speeches, does not apologize for his methods, which include holding private meetings on cases being handled in the office without the line attorney on the case present.

"I don't think people understand that the attorney general is elected to carry out the functions of this job," said Lungren. "The people who work here are to assist the attorney general ... I am in many ways a hands-on attorney general, and I don't feel inadequate to do that job."

The internal wrangle over Lungren's administrative style has been most apparent in the dispute over the departure of Marian Johnston, a nationally recognized civil rights lawyer who joined the attorney general's office nearly 14 years ago during the administration of Republican Evelle Younger and who headed the civil rights division when Lungren arrived.

When Lungren was sworn in last year, Johnston said, she approached her work with the new administration in the same way she had always viewed her responsibilities as a state lawyer with a particular set of skills: "This is a civil service office with people who care about the office and want to do the best job possible, whatever the political party of the attorney general."

But just seven months into Lungren's term, Johnston was demoted, ostensibly because she privately criticized the new attorney general — an assertion Johnston adamantly denies. Lungren critics, though, believe he replaced Johnston as part of an effort to promote lawyers more philosophically in tune with his conservative politics. Lungren, they say, is so right-wing that there is little room for dissent, or even lawyerly disagreements. Johnston resigned in October to work for a Sacramento law firm.

Although other controversial personnel moves have been made by the Lungren administration, Johnston's demotion — and the stated reasons for it — generated a flurry of protests and news coverage, including newspaper editorials sharply critical of the attorney general. A major factor in the criticism is the esteem in which Johnston is held in the legal community as a nationally acclaimed expert on civil rights issues. A 1970 Stanford graduate, Johnston received her law degree from Columbia University in 1974, worked for California Rural Legal Assistance from 1974 to 1976, and for the state Department of Fair Employment and Housing from 1977 to 1978.

The dispute about Johnston's removal centers around Lungren's abandonment of a longstanding policy of having the deputy handling a case present when decisions about the case are made. Traditionally and ethically, Johnston and others say, the deputy attorney general on a case should always be involved in discussions of the case, primarily to add his or her expertise but also to avoid any appearance of legal decisions being made for reasons other than the merits.

But Lungren met without Johnston while considering what to do about a possible lawsuit to require the federal government to use revised figures for the 1990 census. The revised figures might have given the state still another congressional seat, but most of the purported undercount was in big cities where Democrats would stand to gain. The administration of Republican President George Bush was against the revision.

Lungren said he understood the issues well and did not need Johnston to be present while he decided what to do. When Johnston learned of Lungren's actions, which were announced in a press conference, she fired off a hot note to the attorney general.

Ironically, Lungren's decision to pursue the case followed Johnston recommendation.

When the dispute hit the newspapers, differences escalated, leading to Johnston's demotion (which cost her nothing in terms of salary or benefits) and her eventual decision to leave the office.

Lungren himself clearly dislikes discussing the Johnston matter, becoming visibly angry when details of her demotion are raised. "What we did was appropriate under the circumstances," he said tersely.

Concerning the census case, Lungren said: "I had to make a decision as to whether we were going to maintain the census case, and I did. It happened to be a particularly politically sensitive issue, and I think I understand politics as well as anybody. I reviewed the matter at some length, and I made my preliminary decision in my own mind, but I still wanted to retain the ability to change my mind. So I mulled

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it over. I told my close executive staff here that I would hold a press conference the next day ... I wanted to make this decision myself. I wanted to put the spin on it, because there is always a spin put on it, and I'm tired of reading in the newspapers what we are doing or about to do or had done, when we hadn't done anything yet."

Lungren said it was only after Johnston told some of his ranking deputies "that she didn't trust anybody" in his executive staff and that the decision had been made based on political motives that he decided to demote her.

"If someone doesn't trust my motivations or motives and someone says they can't trust anybody on executive staff, it hardly suggests that is someone you want in a position of decision-making authority," Lungren said, adding, "I didn't find it strange under those circumstances to make the decision that I did."

Johnston said she leaves state service with decidedly mixed feelings. On one hand, she liked her work. On the other hand, she said, the attorney general's office "has become so politicized. People find it very difficult to do their work ... There is a tremendous fear factor, and a very real fear that we are not going to be able to continue as a responsible group of attorneys, handling cases to the best of our abilities."

She blamed her demotion — and ultimate resignation — on politics. "I don't know of any other possible explanation," she said. 'In the census case, I was recommending very strongly that the case continue, but I was not included in the discussions, and I was not told when he [Lungren] reached the decision. I was removed from the case when I was the most experienced person."

Critics of the year-old Lungren administration say the treatment of Johnston focuses in sharp relief disaffection with the attorney general among some rank-and-file staffers in the state Department of Justice, and among some lawyers who work with the agency. Lungren supporters counter that the office is undergoing the usual organizational upheaval of a new administration, complicated by Draconian state budget cutbacks that have left the department with hundreds of vacancies.

One particularly visible protest occurred in September when some 60 to 100 lawyers protesting Lungren's record on civil rights, environmental and death penalty issues — as well as Johnston's demotion — staged a walkout during the attorney general's speech to the annual conference of the state Bar of California in Anaheim. Led by California Women Lawyers, according to news accounts, protesters were joined by delegates from Asian and gay-rights legal groups.

Clearly stung by the walkout, which Lungren said Johnston joined when she was still a member of the attorney general's office, Lungren defends his record on environmental, consumer, antitrust and civil rights issues. And in recent months, he appears to have stepped up his public visibility on these issues — even holding a press conference with the Environmental Defense Fund in November to announce that he was filing suit against manufacturers of ceramic tableware for failing to notify consumers of high lead levels in some products.

While adopting a strong pro-business stance in many areas, Lungren insists environmental and business interests need not be in opposition, and he is concerned that some state laws and policies are unnecessarily creating an anti-business climate in California.

"This state has inexorably moved toward a position where it is viewed as anti-business, and that hurts the people of this state," Lungren said. "We have the highest unemployment that we've had in probably a decade. ... I am extremely concerned about an anti-business perception — and in some cases an anti-business bias — in California, and I am doing everything I can to ensure that this attorney general will strongly and vigorously enforce the law, but in an even-handed fashion.

"When we take on a consumer-protection case or a Proposition 65 [the state toxics initiative] case, I have told my deputies that I want to be in a position that when we are analyzing the damage done as defined in the applicable statutes that we don't lean toward a deep-pocket dart board to pick our targets. ... We try to convey that we will go after people and go after them hard, but we will not take undue advantage of the position of the state.

"Part of that comes out of my philosophy: I'm a conservative and I believe in limited government. I see the almighty power of the state, and when the state's powers are weighed against the individual, whether it's a person or a company or an association or a school, that can be awesome, and that can influence people to settle cases that are beyond the merits. I think we have an obligation to, as we pursue the interest of the state, to also attempt to take a step back and say what is the best public interest, what is the greater public good that we're trying to achieve?"

But many employees, who spoke with reporters on the condition they not be identified, complained Lungren had no

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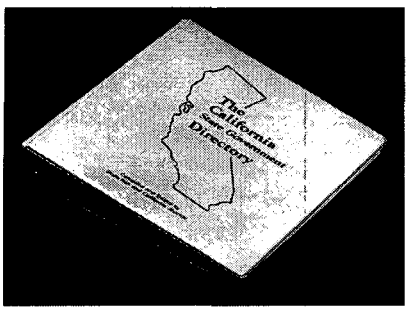

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coherent legislative program, made personnel and policy decisions based on ultra-conservative political ideology and alienated many employees early in his administration by summarily transferring several longtime criminal division lawyers and insisting that all criminal division attorneys handle death penalty cases if they wanted promotions.

"If this early perception — of a very politically driven, partisan office — plays out through the rest of the administration, then it will have a demoralizing impact on the office," said one former Justice Department attorney. "It will undermine their credibility as the chief law officer for the state, their impartiality and the quasi-judicial role which the A.G.'s office plays in many areas."

Chief Deputy Attorney General David Stirling, a former state legislator and Superior Court judge, has said in interviews that the changes were necessary to focus shrinking budgetary resources on key programs and were not made for arbitrary political purposes.

Beyond the Johnston case, which has been the most widely reported personnel controversy, critics cite other examples of arbitrary or uninformed decision-making by the Lungren administration:

- Early in his administration, the new attorney general was criticized for his decision to require all criminal division attorneys assigned to writs, trials and appeals to handle death penalty cases — a decision that longtime agency lawyers say is a major departure from the policies of past administrations, Democratic as well as Republican.

"For years, people were not required to do death penalty cases if they had moral, religious or ethical objections to the death penalty," said one former lawyer in the office. "Most handle death penalty cases, but there have always been a few who were hired with the understanding that they wouldn't have to, although they were given other heavy, major cases to handle so that the workload evened out."

The percentage of such cases in the division is believed to be somewhere between 6 percent and 15 percent. No one disputes the fact that such cases are notoriously complex and time-consuming. "If some people don't do that work, it leaves it to others to do it, which creates more stress on them," Stirling said in an interview for an August article in *California Lawyer.*

Because the policy is tied to promotional opportunities within the criminal division, some lawyers in the office are troubled by its arbitrariness and fearful that the policy might deter some qualified lawyers from working there and punish those who have been on the job for years. "It seems needlessly rigid and doctrinaire," said an attorney in the office. "For people who have worked in the department for years, it's really repugnant. I think people would understand if there were a problem, but there isn't."

"I think an A.G. has a right to set policy like this," said another deputy, who has worked in the criminal division for more than a decade and does not handle death penalty cases for reasons of conscience. "I don't agree with this particular policy because I think we have some very good deputies who would make very good supervisors who would not be promoted for this reason."

- Six months into the Lungren administration, legislative consultants and other lawyers familiar with the attorney general's crucial role in the legislative process complained that Lungren had virtually no legislative presence and no coherent legislative program. One top legislative consultant,

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a lawyer who has worked with the attorney general's office for many years, told *California Lawyer* that the office had "disappeared on the civil agenda." On the criminal side, that lawyer said, "They have brushed off a few old proposals, but they're just old wine in new bottles."

Lungren responds that, in part, his profile in California may seem lower because he is concentrating his efforts at changes in federal law that he believes could speed up the processing of the state's death penalty cases.

Stirling adds that the attorney general's legislative program is intentionally limited because it is specific and focused. "Having been a member of Congress, the attorney general personally wants to review all legislation that this department initiates," he said. He cited measures streamlining the death penalty and *habeas corpus* reform as central to the legislative program.

Lungren expresses concern, and some annoyance, that he is rarely asked by reporters about crime and his response to it, which he says is the core of his legislative program at the state and federal level.

"I ran on the idea that law enforcement is the number one priority of the attorney general's office," he said, "and we've tried to make good on that." He cites an aggressive legislative approach on anti-crime measures in the Legislature and in Congress, as well as strong efforts to hold the line on budget cutbacks in the attorney general's Division of Law Enforcement, which comprises a majority of the agency's staff and resources.

"When I walked into this office, we were 93 people short in the section of DLE that responds to requests for approval for purchase of weapons," Lungren said. "One person was delayed 49 days under the provisions for a 15-day check. ... We're trying to build that section back up."

Lungren is extremely vocal on federal anti-crime legislation and just before Thanksgiving unleashed a blast at provisions of a federal crime bill that were adopted by a conference committee on November 24th. Lungren urged President Bush to veto the measure, saying it would be "a major retreat from law enforcement's efforts to do something about violent crime." He said the measure would extend death penalty appeals.

• In August, Lungren eliminated the office's highly specialized organized crime and white-collar crime units — the Special Prosecutions Unit and the Major Fraud Unit — and transferred the lawyers assigned to those units, which have investigated and successfully prosecuted several notorious cases, to the criminal appeals section, which among other things defends state imposition of the death penalty in capital cases.

The Special Prosecutions Unit was organized in 1979 by then-Attorney General Deukmejian, and the Major Fraud Unit in 1984 by Van de Kamp, who decried its elimination as "a very sad development, given [its] history of aggressive prosecution."

George Williamson, head of Lungren's criminal division, said in one news account that the changes will "give the office more flexibility ... we're getting more bang for our buck."

But one high-ranking lawyer familiar with the fraud unit, who asked not to be identified, said the reorganization will mean a less coherent approach to difficult cases. "These cases take an awful lot of time and resources," that lawyer said. "By being insulated from the mainstream, [the unit] could take on major cases."

Lungren himself said he would have preferred not to eliminate SPU and Major Fraud, but was forced to make difficult cost-cutting decisions because of state budget cutbacks.

"I would not have folded SPU and Major Fraud if we'd gotten the budget we asked for," he said in November. "That does not mean we would not have made that programmatic change down the line, because we were going to look seriously at it, but I will guarantee you it would not have been done this year."

• In October, the *Los Angeles Times* reported that some three months earlier, Lungren met privately — without the state lawyer assigned to the case, Deputy Attorney General Patricia Barbosa — with representatives of the Hollywood Chamber of Commerce to "renegotiate" a tentative settlement of complaints that the chamber had failed to properly maintain the landmark HOLLYWOOD sign and the Walk of Fame. The chamber was to maintain the landmarks with money received from royalties and usage fees. The Lungren meeting was arranged by Johnny Grant, a chamber board member and celebrity announcer who often emcees Republican Party campaign events and is a longtime friend and political ally of the attorney general.

The settlement reached with the chamber required that the business group relinquish control of the two landmarks — which bring an average of $100,000 a year in revenue to the chamber in royalties and usage fees — and pay the state $220,000 restitution. The tentative settlement was reached

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early last summer following a lengthy investigation of the chamber's finances.

According to the *Times*, soon after the meeting with Lungren, the attorney general's office "decided not to force the chamber to accept the deal or face charges in court as it had threatened." Lungren staff told the *Times* the meeting was a "get-acquainted" session, although interviews and documents examined by the newspaper "show that the chamber officials not only discussed the case personally with Lungren, but also took the opportunity to seek a better settlement." The *Times* also reported that there was no evidence Lungren "acted specifically to help the chamber" after the meeting, and Grant insisted "no deal was made."

Nonetheless, Lungren's involvement in the matter has generated criticism from present and former state Justice Department lawyers and from city officials in Los Angeles, who hoped to assume control of the sign and funds for its upkeep as part of the proposed settlement.

The attorney general's office originally alleged that the chamber misappropriated as much as $595,000 in royalty payments and usage fees from souvenir manufacturers and other firms that use the two landmarks for films and ads. Instead of placing the money in a trust fund for maintenance of the landmarks, state investigators said, the chamber used the money for its own operating expenses and failed to maintain the sign and walkway.

In a surprise move on November 4th, the attorney general's office did go to court, filing a $700,000 lawsuit against the chamber. The deputy attorney general filing the case was James Schwartz, and Lungren declined at the time to discuss with reporters the sudden decision to file suit, or whether criticism of the private meeting was a factor.

Lungren said that chamber representatives "didn't present a specific proposal *per sé*" at his meeting with them. "They ... were there for the purpose of sharing and describing to me how they as the new members of the board felt that the old members were responsible for the improper activity that had taken place.

"What they presented to me was that if we go forward on these terms, the chamber would be bankrupt. I had to then ask myself [whether] our purpose is to bankrupt the Hollywood Chamber of Commerce, or is it to establish that improper conduct took place with respect to the trust involved, to try and get recompense but to allow those payments to be made in a way that allows the chamber to continue?"

After the meeting — which Lungren insists is a perfectly appropriate function for the attorney general — he said he immediately informed Rod Walston, chief assistant attorney general in charge of the public rights division. Lungren said he asked Walston "to check into it and keep these things in mind, that's all." Lungren said delays ensued, and "finally we told [chamber officials] that if we can't get this resolved by a certain date, we'll have to file suit and take negotiations from there."

Lungren said his background in Congress as well as his private law practice honed his negotiating skills, which he says he uses in private as well as public venues. He has no compunction about meeting with individuals, like Hollywood chamber officials, who seek access to the state's top lawyer. (For five years before being elected to Congress,

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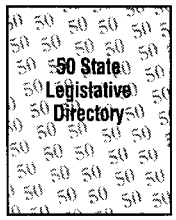

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Lungren was with the Southern California law firm of Ball, Hunt, Hart, Brown and Baerwitz, which includes among its partners former Democratic Governor Pat Brown, and was a partner in the Sacramento law firm of Diepenbrock, Wulff, Plant and Hannegan before becoming attorney general in 1990.)

"I happen to have practiced law in the private sector, and now I'm in the public sector," he said. "I've tried cases. I've settled cases. I've had cases on appeal. I've gone to juries. I've gone to judges. I think I have a pretty good idea of how to try cases and how to evaluate them. And, just as when I was in the private sector it wasn't always appropriate or always necessary that the senior partner have another partner or an associate in attendance. I make that decision on an individual basis. I have no fear of meeting people. I'm not afraid, or have a lack of confidence that I won't understand the issues."

And, he says, if he does decide to meet privately without the principal deputy on a case present, he is fully briefed before these meetings take place. "And I always have another attorney with me ... usually someone in the chain of command, the head of the section or the division or Stirling."

Nonetheless, Lungren was harshly criticized for his dealings with the chamber, and the matter was reportedly raised during a closed-door staff meeting with lawyers in the attorney general's Los Angeles office in August.

The chamber investigation began during the administration of Van de Kamp, who said he avoided Grant's efforts to discuss the case at a social function because, "You don't want to give a sign to the outside world that people can circumvent the chain of command," he told the *Times*.

In addition to doubts generated by some of his own lawyers, Lungren has had early difficulties dealing with the Sacramento press corps, particularly the part of it that concentrates on legal affairs. The problems come as something of a surprise to Lungren. Although he has always been somewhat combative, reporters generally have found his outspokenness made for good copy. Still, Lungren staffers complain they have trouble getting the press to concentrate on what they believe is their boss' real agenda.

"Why don't reporters ask more questions about crime?" asked Robinson, his new communications and public affairs director, who is credited in some quarters with a sudden, marked improvement in Lungren's rocky press relations.

Although Robinson refuses to take credit, Lungren's media presence has increased significantly in recent months, including the page-one press conference on lead in ceramic tableware. Shortly after that press conference, which prompted harsh criticism from the tableware industry, Lungren was again in the news with a report on the high cost of using private counsel to litigate state concerns, followed a few days later by a major announcement on procedures to be used to implement the new assault-weapons legislation.

Apparently convinced, perhaps by Robinson, to pursue a less combative stance with reporters, Lungren nonetheless makes for a tough interview. He is a man of firm views, well-informed and supported by sometimes staggering detail.

Although staunchly conservative in fairly predictable ways, Lungren has sometimes startled opponents with unexpected departures from conservative ideology. In Congress in 1983 he reversed his longtime opposition to the bill marking the birthday of Dr. Martin Luther King Jr., saying that he had become "so hung up on the question of cost that I lost sight of the question of what this occasion symbolizes." Backers of the bill credited Lungren with bringing other conservatives in behind the measure.

A 1984 *Journal* profile of the young congressman noted other unexpected nuances of the Lungren persona: A non-drinker in a town where "power lunching" is a kind of religion, he preferred to eat in his office — a brown-bag lunch packed by his wife, Barbara, while she packed the school lunches of their three children.

The first attorney general in recent memory to be based in Sacramento, he is fiercely protective of time with his family, who live in suburban Roseville. Asked about his family, the tough-guy image that Lungren projects, perhaps unwittingly, markedly softens. There is an edge of bitterness, too, when he talks about the unremitting demands on the time of elected officials, whether they be in Washington, D.C., or in Sacramento.

"One thing that used to upset me the most in Congress, probably more than any other thing, was the lack of responsiveness to the needs of families," he says grimly.

Lungren said he and his wife decided long ago that family came first. "My wife and I were lucky in that when I was in law school [at Georgetown University, in Washington, D.C.], she worked at the White House and I worked on the Senate side. We were able to see problems that existed with some people in politics with their families. We were forewarned. We made a very strong decision when we went back to Washington that family wasn't going to come second."

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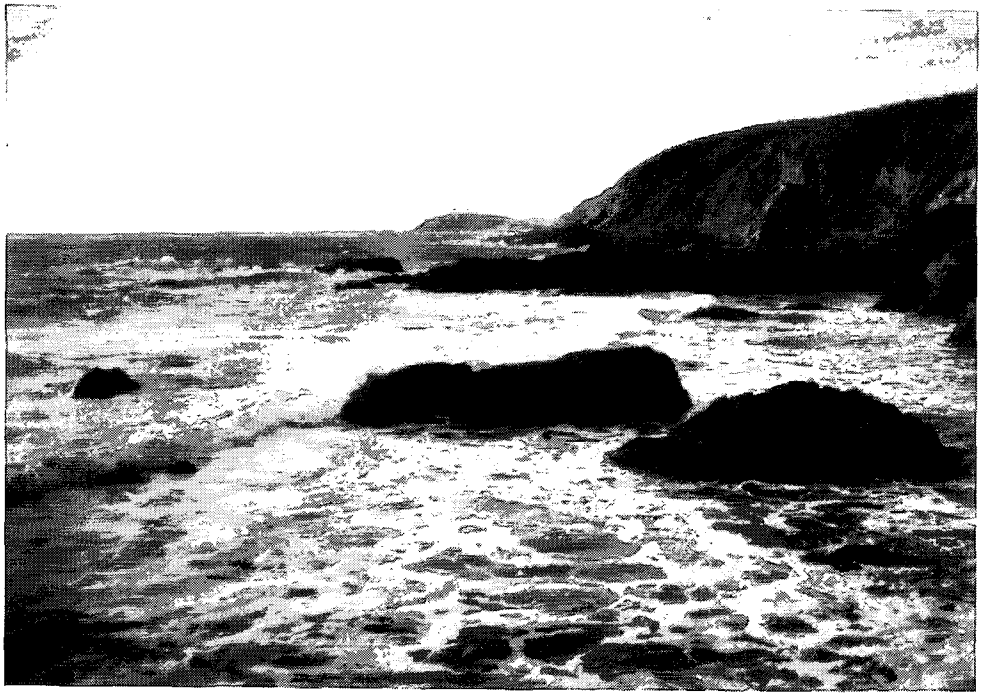

Wetsuits to lawsuits

Surfers defend the environment

By Terri Morgan

When Surfrider Foundation President Robert Caughlan accused two Northern California pulp mills of polluting one of the finest surfing breaks in the state by illegally dumping billions of gallons of untreated wastewater into the ocean off Humboldt County, representatives at both mills just laughed. "They kind of snickered at first that surfers were mad about the pollution," Caughlan recalls.

The operators of the Louisiana-Pacific Corporation and Simpson Paper Company pulp mills still didn't take the small, grass-roots environmental group seriously when it made good on earlier threats and filed a citizens' lawsuit in 1989, charging the mills with 40,000 violations of the federal clean-water act over a six-year period. But the mood was definitely sober when the case, the largest of its kind ever filed in California, was settled last July in U.S. District Court in San Francisco with the defendants agreeing to pay more then $100 million for a treatment facility, environmental improvements and civil penalities.

The fight was likened to a David-versus-Goliath battle from the start. The Surfrider Foundation was just four years old in 1989. While the group now has about 17,000 members, it had fewer than 1500 members — half of whom were too young to vote — when the suit was filed. The group, comprised mainly of ocean sports enthusiasts, didn't even have an attorney until Mark Massara, then a 27-year-old surfer fresh out of law school, saw the pollution firsthand, got

Terri Morgan is a freelance writer from Soquel.

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The Surfrider Foundation: the David that took on Goliath

The settlement of the lawsuit between the Surfrider Foundation and Louisiana-Pacific Corporation and the Simpson Paper Company has given the grass-roots environmental group national attention. *Newsweek*, *Time*, and *People* have given the 17,000-member organization ink in recent weeks, and CNN broadcast news of last summer's court victory to viewers throughout the country. The spate of publicity has allowed the membership to swell by about 800 a month.

So who are these guys, anyway?

The Surfrider Foundation was started back in 1984 by a surfer named Tom Pratte as a non-profit organization dedicated to the protection and enjoyment of the world's waves and beaches through conservation, research and education. Based in Huntington Beach, the group is concerned with ocean water quality and the protection of surfing resources around the world.

The organization's track record is impressive. Shortly after its inception, the foundation went to federal court to prevent a breakwater — one that would have eliminated surf from breaking on three miles of beaches — from being built in Imperial Beach. It fought a two-year battle to ensure public access to beaches in Los Angeles, Santa Barbara and Point Reyes. The organization also serves as a trustee of a number of public beach accessways throughout the state.

Key personnel include executive director David Saltman, who is also president of Media Education, which produces educational films and television programs. Surfrider Foundation president Rob Caughlan, a partner in the Roanoke Company, a public-service advertising agency, has been active in coastal environmental issues for more than a quarter of a century. He has worked for the state Legislature, the Congress, the Environmental Protection Agency and former President Jimmy Carter.

Dr. Scott Jenkins, a lecturer and research engineer at the Scripps Institute of Oceanography, is the group's environmental director. Jenkins created the foundation's Blue Water Task Force, which enlists beach-goers throughout the country to monitor water quality at local beaches.

Administrative director Teri Schulz oversees administrative duties and day-to-day operations at the Huntington beach headquarters.

Mark Massara, who received his law degree at University of San Francisco, is the chief legal counsel.

The Surfrider Foundation may be reached by calling 1-800-743-SURF.

— *Terri Morgan*

angry enough to do something about it, and convinced the foundation to utilize his services and become a plaintiff in the case against the two Fortune 500 companies.

As well as being backed by enormous parent companies, the two mills have a long history in Humboldt County. The 101-year-old Simpson Paper Company has been manufacturing pulp out of wood chips from its Samoa peninsula facility for more than 24 years. The neighboring Louisiana-Pacific facility has been in operation for nearly 30 years. Together, the two companies employ more people in Humboldt County than any other company, and both had the powerful law firm of Beveridge and Diamond representing their legal interests in California and in Washington, D.C.

Before the Surfrider Foundation was even formed, the mills had used their enormous political clout to convince Congress to grant them a specific exemption — Section 301(m) — from the Clean Water Act back in 1987. With Section 301(m) in effect, Simpson and L-P became the only two mills in the country not required to reduce the toxicity of their effluent through secondary-stage treatment. In return, L-P and Simpson were required to use a specific test, called the Dinnel 1986, to monitor the effect their effluent had on the plant and animal life in the vicinity of their outfall. The EPA stipulated that if a decline in ambient water quality was found, the mills' exceptions were to be terminated.

Surfrider's attorney-to-be, Massara, discovered this information after taking a trip up to Humboldt Bay to surf a break known as the "North Jetty." "I had heard through the surfer grapevine there were [pollution] problems up there, as well as great waves," Massara said. "When I went up, it was a solid 10 foot, with black effluent in the waves."

The effluent was produced by the mills, which cook and bleach wood pulp during their manufacturing processes. Plumes of the foul-smelling effluent are discharged at the rate of nearly 50 million gallons a day from an outfall about three miles from the surfing break. When the currents and winds are just right, the toxic mixture is carried into the surf. When that happens, said Massara, you get black waves.

Ryan Hamilton, a spokesman for Simpson Paper Company, who said he regularly kayaks in the area, claimed the effluent plume rarely reaches the surf zone. "There is an odor associated with it, and some foam," Hamilton said. "But black waves? That's just not the case."

The Surfrider Foundation, after discovering the plume contains over 100 organic compounds, including suspected carcinogens known generically as dioxin, said even once is too often. Produced when chlorine is used by the mills as a bleaching agent, dioxins are highly toxic chemicals that have been documented as causing immune suppression, impaired liver function, and severe reproductive disorders in humans.

Massara got much of his initial information after he mentioned the black waves to a surfer buddy, Christopher Sproul. An assistant regional counsel for the Environmental Protection Agency's San Francisco office, Sproul was well aware of the situation, having spent the previous two years working on a case that arose when the mills complained that the Dinnel 1986 test was too stringent and appealed the terms of their operating permits.

"The EPA sued the mills in the early '80s for clean-water violations," Sproul said. The EPA won a judicial order that would have forced the mills to build a wastewater treatment

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plant, he said, but that decision was overruled when Congress enacted section 301(m).

"They still couldn't meet their toxicity agreements, so we started to proceed again in 1988," Sproul said. "When Surfrider joined in, we were already contemplating whether to sue or not."

Massara, who was in private practice in San Francisco at the time, decided to take on the case himself, and asked the Surfrider Foundation to become the plaintiff. Caughlan, who had heard complaints from surfers in Humboldt County about a "weird chemical smell" in the water at the north jetty that led to skin irritations and nausea, said it didn't take much convincing for the organization to get involved.

"We knew it was gonna be a big case, but had no idea how ultimately big it would get," said Caughlan. He got an inkling when Massara made a freedom-of-information request to the EPA for access to their files, and with the help of California State University, San Francisco, professor Douglas Segar, began tallying up the number of violations.

"When we tabbed up 40,000 violations, it cost us $4000 just to print them," said Caughlan. "We ended up with a stack of papers about eight feet tall."

Four to twelve months (depending on who you talk to) after the case was filed, the EPA joined the battle.

"We couldn't afford experts for every angle, so we soaked off EPA's expertise," Massara said. "EPA had all the resources, so we got tens of thousands of dollars worth of documents for free. ... The EPA was a major player, but we brought the human aspect to court. We were able to work really well together."

Despite the EPA's assistance, the suit nearly foundered in 1990, when the firm Massara was working for tired of the case and urged him to drop it. Massara and Tom Pratte, then executive director of the foundation, turned to the surfing industry for support. When Body Glove Wetsuits and several other surf-oriented businesses donated $30,000 to the cause, Massara severed his ties with his old firm and began working for the Surfrider Foundation full time.

Massar's next challenge was convincing United States District Court Judge Marilyn Hall Patel to deny a motion for dismissal filed by the mills. Charging the Dinnel 1986 test was too stringent, the mills had appealed to the EPA back in 1987 to accept a shorter test, called the Bodega Marine Lab (BML). Similar to the Dinnel test, both methods measure the impact the effluent has on sea urchin sperm. However, the Dinnel is conducted 60 minutes after sea urchins have been removed from the ocean, while the BML protocol is done 10 minutes later.

"We had a big problem with that test," said Hamilton. "It's very subjective. You could send samples to two different labs and get two different results."

Attorney Marc Zeppetello, who represented Louisiana-Pacific, argued that because the Dinnel test is so stringent, anything, toxic or otherwise, could set it off. Even the artificial seawater mixture the tests were conducted in would show toxicity before the effluent was added, he said. "The EPA is extra stringent on these mills because of the waiver," Zeppetello said.

He argued that the mills should be exempt from complying with the toxicity limits on their permit until their appeal could be held. While admitting the mills' test results showed their effluent was more toxic than permitted, Zeppetello argued that the EPA could not enforce the disputed test until the issue was resolved in a hearing.

Judge Patel disagreed. "The companies are telling the court ... they have essentially exempted themselves from all environmental protection requirements and are therefore free to discharge potential chronically toxic effluent into the waters of the Pacific Ocean with impunity," she ruled. "The position is disingenuous and flies in the face of the Clean Water Act."

After the mills' motion for dismissal had been denied, they realized it was in their best interests to settle the case.

"We had the choice of directing our resources to a long

Beach fees: Surfrider Foundation takes on California

The Surfrider Foundation filed a lawsuit against the state Department of Parks and Recreation and the California Coastal Commission last summer after the two organizations approved day-use fees at various beach parks in California. The suit also targets similar fees already being charged at other state beaches.

"We don't like the idea of charging Californians for beaches we've already paid for," said Mark Massara, chief legal counsel for the Surfrider Foundation.

Shortly after the Coastal Commission granted the parks department unfettered discretion in setting and exacting beach access fees throughout the state last summer, the department announced plans to charge user fees of at least $6 a day to visitors at more than a dozen beaches throughout the state.

The Surfrider Foundation objects to those fees, charging that they unfairly restrict beach access to persons of limited economic needs.

"California's beaches are a public treasure, having been either gifted to state parks or purchased with tax dollars," Massara said. "The management of these lands was vested in [the parks department] with the intent that they be available for public use on an equal access, non-discrimination basis and subject to the policies of the California Constitution and Coastal Act, which guarantee public access to our coast."

As of early November, the foundation was in the process of moving the case from San Diego to San Francisco and waiting for the administrative record to be prepared. Massara said a hearing on the matter should be scheduled next month after the paper work has been completed.

"We've also prepared an initiative to the attorney general for the November 1992 state ballot, amending the public resource code to prohibit state parks from charging access fees at coastal unit," Massara said.

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and costly court battle or focusing on making the Humboldt pulp mill one of the cleanest mills in the nation," said Aaron Gettel, operations manager of the Simpson pulp mill. "We chose to work out an agreement that will provide research and installation of pollution control technology at the Humboldt mill."

Louisiana-Pacific came to a similar conclusion. "We decided it was best to settle the litigation, come to an agreement with regard to the testing, and move forward," Zeppetello said. "The companies recognize that these tests are here to stay. They just want a test that's scientifically appropriate."

Settlement negotiations, which had been taking place from the start, began in earnest. By that time, the Surfrider Foundation had enlisted the aid of former Congressman Pete McCloskey, who co-authored the Clean Water Act back in 1972.

"We wanted someone real fluent in Washington politics to represent our politics," Massara said. Massara, who describes himself as a "negotiator, not a litigator" said he also wanted McCloskey to represent the group in the courtroom.

From the beginning, said Caughlan, all the foundation wanted was clean water, and the group was determined to settle for nothing less than a wastewater treatment plant. When negotiations were concluded, they ended up settling for slightly more.

The agreement, which was reached in court last summer on Massara's 30th birthday, requires the mills to build the treatment plant by March 1994, to extend their outfall pipes to keep the surf zone effluent-free by October 1993, and to begin ecological and health studies. The companies agreed to contribute $350,000 towards the construction of a public recreational facility on federal lands near the mills. As well as camping sites, and a small conference room, the park will include solar showers for the surfers.

Simpson also agreed to reduce or eliminate chlorine bleaching from its pulping process by December 1992, and to produce all its environmental compliance reports on partially recycled paper.

The mills also agreed to pay the U.S. treasury $5.8 million in civil penalties for clean-water violations, and reimburse the foundation $500,000 in legal fees.

"It's a major victory for all beach lovers," Caughlan said. "We could have gone back to court and argued for higher penalties, but our goals was to get the water cleaned up as quickly as possible."

Massara said part of the credit for Surfrider's victory is due to McCloskey. "Pete's a war hero from Korea who led all these bayonet charges," Massara said. "That's how I felt in court with him."

McCloskey was equally impressed with his young colleague. "Mark Massara did a super job. He worked out of his garage with a typewriter and a fax machine, and literally fought those guys right to their knees," McCloskey said. "For a guy in his first year out of law school, it was a real achievement."

Surfrider Foundation executive director David Saltman said if a group of surfers can win a victory like that, so can other special-interest groups.

"I think the most significant thing that occurred is it really proved to the general citizen you can be effective in preventing pollution and stopping big corporate developers without penalizing a community," Saltman said. "It's an incredible model for environmentalists."

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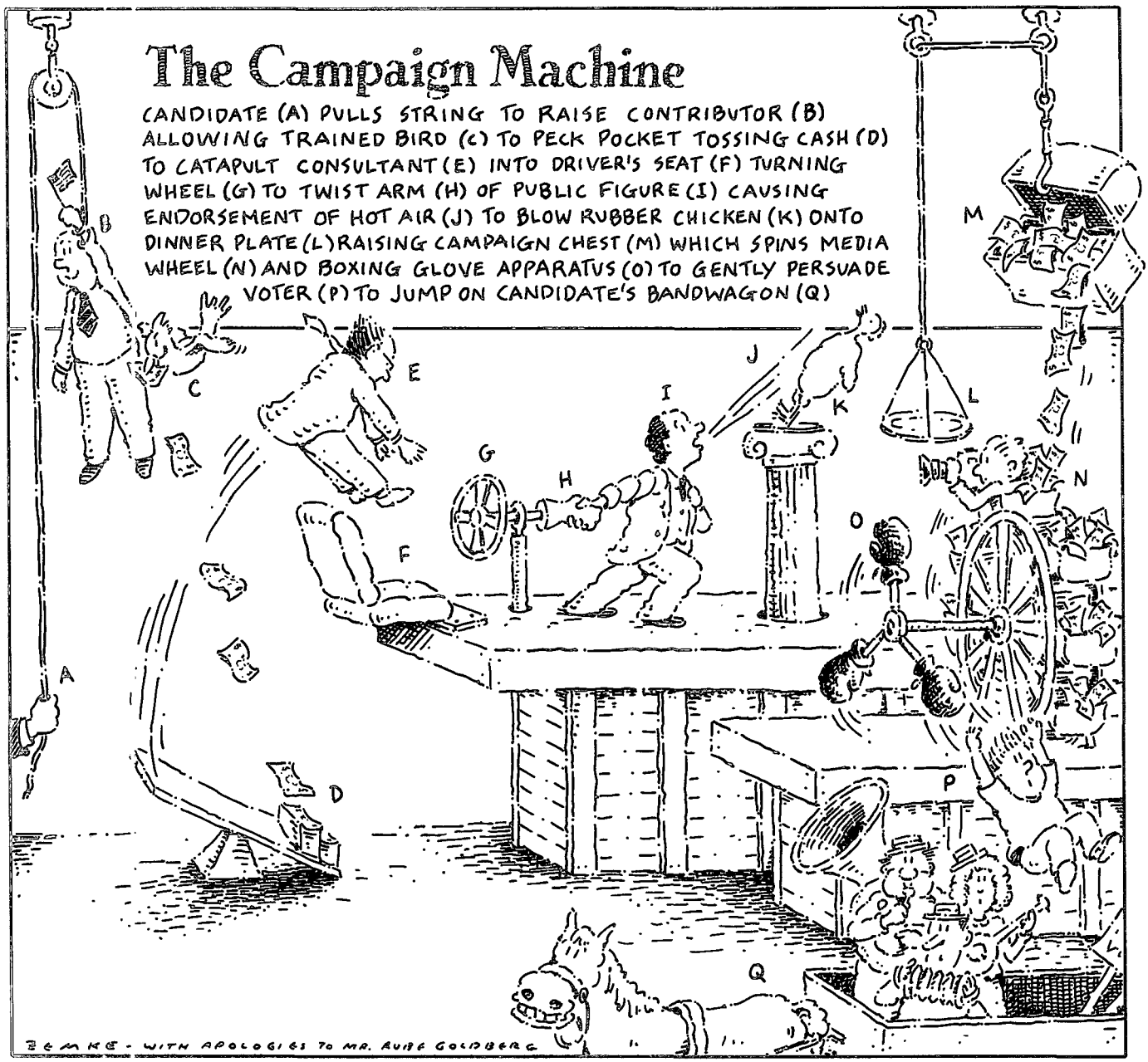
California JOURNAL
INDEPENDENT ANALYSIS OF POLITICS & GOVERNMENT

CAMPAIGNING IN CALIFORNIA

Practical guide to state and federal campaign disclosure laws — *Seventh Edition*

By Nielsen, Merksamer, Parrinello, Mueller & Naylor


The Campaign Machine
CANDIDATE (A) PULLS STRING TO RAISE CONTRIBUTOR (B) ALLOWING TRAINED BIRD (C) TO PECK POCKET TOSSING CASH (D) TO CATAPULT CONSULTANT (E) INTO DRIVER'S SEAT (F) TURNING WHEEL (G) TO TWIST ARM (H) OF PUBLIC FIGURE (I) CAUSING ENDORSEMENT OF HOT AIR (J) TO BLOW RUBBER CHICKEN (K) ONTO DINNER PLATE (L) RAISING CAMPAIGN CHEST (M) WHICH SPINS MEDIA WHEEL (N) AND BOXING GLOVE APPARATUS (O) TO GENTLY PERSUADE VOTER (P) TO JUMP ON CANDIDATE'S BANDWAGON (Q)
BEMKE - WITH APOLOGIES TO MR. RUBE GOLDBERG

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INTRODUCTION

This seventh edition of the *California Journal's Campaigning in California: Practical Guide to State and Federal Campaign Disclosure Laws* is designed to help candidates, contributors, campaign consultants, committee treasurers and others cope with the complex rules of the political game. Since the publication of the sixth edition of this *Guide*, court cases have invalidated most limitations on contributions to candidates in California elections; nevertheless, several other laws have gone into effect during the past two years that regulate the activities of those who participate in California's political process. Those who fail to abide by the ever-changing requirements of California's political laws risk exposure in the press, substantial administrative and civil penalties, and even imprisonment.

This *Guide* walks through the maze of campaign laws, emphasizing what potential candidates and contributors may and may not do, and who must file which forms, and where and when the forms must be filed. (Please note, however, that the court case that invalidated most of the state's contribution limitations is on appeal. All or part of these limitations may be reinstated at any time.)

Nielsen, Merksamer, Parrinello, Mueller & Naylor is California's largest and best-known political and government law firm, with offices in San Francisco, Marin County and Sacramento. Senior partner Chip Nielsen authored the *Campaign Law Reporter Reference Manual* (1975-82) and many articles on political reform law; partner Judy Davis, associates Lezlee Westine and Jim Sutton, and senior political reports specialists Kirk Pessner and Bruce Robeck contributed to the revision of this seventh edition of the *California Journal's Guide*.

CALIFORNIA LAW

(Government Code sections 81000-91015)

What is the basic purpose of the Political Reform Act's campaign disclosure provisions?

According to the Act, "receipts and expenditures in election campaigns should be fully and truthfully disclosed in order that the voters may be fully informed and improper practices may be inhibited." To accomplish that purpose, the Act requires candidates for state or local office, committees supporting those candidates, and committees supporting or opposing ballot measures to file periodic campaign statements listing detailed financial contribution and expenditure information.

Does the Political Reform Act apply only to contributions by individuals?

No. To achieve its purposes, the Act regulates contributions by all *persons*, including "individuals, proprietorships, firms, partnerships, joint ventures, syndicates, business trusts, companies, corporations, associations, committees, and any other organization or group of persons acting in concert."

WHO MUST FILE

At what level of government does the Political Reform Act apply?

The disclosure requirements of the Act apply to candidates, committees supporting or opposing candidates, and public officials at ALL levels of state and local (i.e., county, city and district) government. Thus, candidates for a school board seat as well as those running for the state Assembly are covered by the Act, along with elected and appointed officials who are *not* currently involved in a campaign. Even candidates for county central committees of political parties are included. In addition, committees supporting or opposing state, county, city or district ballot measures are covered by the campaign disclosure requirements. Contributions supporting or opposing federal candidates are governed by federal, not California, law, and are discussed later in this *Guide*. Many cities and counties have enacted their own more restrictive campaign laws, including limitations on contributions to local candidates. These laws are *in addition to* state law requirements. Local election officials, such as the city or county clerk, should be consulted before undertaking any local government campaign activity.

Who is a public official?

Any individual who holds a state or local government job, by election or appointment, is a public official covered by the state's campaign laws. This includes state, regional, county, city, judicial, special district and county central committee offices.

Who is a candidate?

California law broadly defines "candidate" to include not only individuals who are listed on a ballot, but also individuals who:

1. have qualified to have write-in votes counted;
2. have received contributions or made expenditures to get themselves nominated or elected to any elective office;
3. have consented to permit other persons to receive contributions or make expenditures on their behalf; or
4. are the subject of a recall election.

The definition of "candidate" includes winning, losing and write-in candidates.

Must a candidate declare for a specific office before raising money for his or her election?

Yes. Prior to soliciting or receiving any contribution, a candidate for any California elective office must file a statement of intention to be a candidate for a specific office with the Fair Political Practices Commission (FPPC) (FPPC Form 501). The "specific office" must include the year of the election.

May a candidate file more than one statement of intention?

Yes. A candidate may declare that he or she is seeking more than one office, and may thereby solicit money for more than one office.

Must a candidate set up a separate bank account to receive contributions?

Yes. A candidate is required to have a separate bank account (located in California) for each statement of intention he or she files. The candidate must notify the FPPC of the bank account number within ten days. (FPPC Form 502).

Must a candidate have a campaign committee?

Yes, unless the candidate is spending only his or her own personal money. If a candidate plans to raise any money, he or she must file a statement of intention, establish a separate

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bank account, and set up a separate campaign committee for each statement of intention filed.

Are candidate committees the only type of committee required to file campaign reports?

No. Individuals and businesses who contribute $10,000 or more to campaigns in California, along with political action committees and other combinations of persons who raise $1000 or more, incur filing obligations.

What is a committee?

Under California law, three types of committees must file campaign reports:

1. **RECIPIENT COMMITTEE** — *raises* $1000 or more in a calendar year.
2. **INDEPENDENT EXPENDITURE COMMITTEE** — independently *spends* (as distinguished from contributing cash, checks, services, or something of benefit to a candidate or other committee) $1000 or more in a calendar year.
3. **MAJOR DONOR** — *contributes* or *loans* $10,000 or more in a calendar year to California candidates, ballot measures and political parties.

A "Recipient Committee" collects contributions for use in an election campaign. Candidate committees and ballot measure committees are recipient committees if they collect $1000 or more in a calendar year.

"Independent Expenditure Committees," though less common, are becoming increasingly prevalent in campaigns with contribution limits. They spend money for communications that expressly advocate the election or defeat of a clearly identified candidate or ballot measure, though *independently of* the candidate or ballot measure committee. An independent expenditure typically comes in the form of direct mail, billboards or newspaper advertisements, in contrast to a non-monetary contribution, which is made at the behest of a candidate or ballot measure committee. Truly independent expenditures are not subject to any contribution limits.

"Major Donor Committees" are individuals or business entities that contribute $10,000 or more directly to candidates or ballot-measure committees during a calendar year. This $10,000 threshold refers to the total of all contributions to all California (state or local) candidates, ballot-measure and political party committees.

Did the voters enact contribution limits in 1988 by passing Propositions 68 and 73?

Yes. Proposition 68 was ruled invalid by the California Supreme Court, however, because it received fewer affirmative votes than Proposition 73. In addition, the provisions of Proposition 73 limiting contributions in regularly scheduled elections were deemed unconstitutional by a federal district court in September 1990. That decision was pending review in the United States Court of Appeals for the Ninth Circuit at the time of printing.

Proposition 73 limited contributions to candidates and to committees that contribute to candidates, based on the status of the contributor. Separate limits applied to contributions from individuals and business entities, political committees and broad-based political committees and political parties.

Are there valid contribution limits for special elections and special run-off elections?

Yes. The contribution limits for special elections under Proposition 73 are still valid. A "special election" is held to fill a seat vacated by an elected official due to death or other departure from the office. Separate limits apply to contributions to candidates running in special elections and special run-off elections. For special elections, limits are calculated from the date the office becomes vacant to the date of the special election. For special run-off elections, the period runs from the day after the special election to the date of the special run-off election. The contribution limits for each special election cycle are:

$1000 for persons;
$2500 for political committees; and
$5000 for broad-based political committees and political parties.

The applicable special-election contribution limits for committees are based on the following definitions:

a. **POLITICAL COMMITTEE** — receives contributions from two or more persons and, acting in concert, makes contributions to candidates.

b. **BROAD-BASED POLITICAL COMMITTEE** — receives contributions from 100 or more persons, has been in existence six months and, acting in concert, contributes to five or more candidates.

c. **POLITICAL PARTY** — receives contributions and makes contributions to candidates. However, activities of parties other than making contributions to candidates are not subject to Proposition 73 contribution limits.

In addition to Recipient Committees, Independent Expenditure Committees and Major Donor Committees, are other categories of committees defined by the Act?

Yes. Each of these general types of committees may be further regulated based on the committee's interests, control or support. These factors may determine where a committee files its required campaign reports, what activities it may undertake, etc.

1. **CONTROLLED COMMITTEE** — a Recipient Committee that is controlled directly or indirectly by a candidate or state ballot measure proponent or that acts jointly with a candidate, controlled committee or state ballot measure proponent in connection with the making of expenditures. A candidate's name must appear in or accompany the name of any committee he or she controls.
2. **SPONSORED COMMITTEE** — a committee, other than a controlled committee, that has one or more sponsors. Any person (usually a business association or labor organization), except a candidate or proponent, may sponsor a committee.
3. **GENERAL PURPOSE COMMITTEE** — all Independent Expenditure Committees and Major Donor Committees, as well as all Recipient Committees formed primarily to support or oppose multiple candidates or ballot measures in different elections. These committees are further defined as "state," "county," or "city" general purpose committees, depending upon the jurisdiction in which they operate.
4. **PRIMARILY FORMED COMMITTEE** — a Recipient Committee formed or existing primarily to support or oppose a single candidate or a single measure or a group of specific candidates or measures being voted upon in the same city, county or state election.

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What is a sponsor?

A sponsor is a business, organization, association, union or other entity that meets certain criteria. An individual, candidate or proponent of a ballot measure is not considered a sponsor, although a candidate or proponent can "control" a committee.

An entity is a sponsor of a committee if it meets *any* of the following tests:

1. The entity or its members, officers or shareholders provides the committee with 80 percent or more of its contributions; or
2. The entity collects contributions for the committee by payroll deductions or dues from its members, officers or employees; or
3. The entity, alone or in combination with others, provides the committee with all or nearly all of its administrative services; or
4. The entity, alone or in combination with others, sets the policies for soliciting contributions or making expenditures of committee funds.

What are the rules for identifying a sponsored committee?

1. If a committee has only one sponsor, the name of the committee must include the official or publicly-recognized name of the sponsor.
2. The name of a committee with more than one sponsor must include a term identifying the industry or other identifiable group to which the sponsors belong.
3. The committee may have only one name, and that name must be used whenever the committee is required by law to be identified: on all of the committee's campaign reports, in all of its mass mailings, and with all of the contributions made by the committee.
4. Any committee that is primarily formed to support or oppose a ballot measure must include the statement "a committee for Proposition (or Measure) X," or "a committee against Proposition (or Measure) X," or equivalent language, in any reference to the committee required by law. This includes the committee's Statement of Organization (FPPC Form 410), its campaign reports, and its mass mailings.
5. When the number or letter of the ballot measure is designated, a committee subject to this requirement must amend its Statement of Organization within 30 days to include the required language.

Must a committee file registration papers?

Only a Recipient Committee must register by filing a Statement of Organization (FPPC Form 410) with the Secretary of State within 10 days after it has qualified as a committee. The Secretary of State will assign it a number that must appear on all campaign statements. A Recipient Committee need only register once.

If a Recipient Committee is formed during the final two weeks prior to any election for which the committee would be required to file a pre-election campaign statement, the FPPC Form 410, or the information contained in that form, must be filed with the appropriate filing office within 24 hours by telegram or personal delivery. The appropriate filing officer will be the one with whom the committee files originals of its campaign reports.

Can the committee amend its Statement of Organization?

Yes. In fact, if any of the information on the Statement of Organization changes, the Secretary of State must be notified within 10 days by filing an amended Statement of Organization. As mentioned above, a ballot measure committee must amend its Statement of Organization within 30 days after the number or letter of the ballot measure is designated.

Is a broad-based political committee required to amend its statement of organization to claim broad-based status?

Yes. Political committees must amend their Statements of Organization when they qualify as broad-based to claim broad-based status before contributing to candidates in special elections at the level permitted for such committees.

Must committees be identified in any special way on the Statement of Organization, campaign reports and campaign literature?

Yes. "Sponsored" campaign committees must identify the sponsors in the names of the committees. A "controlled" committee name must also include or be accompanied by the name of the candidate or other person who controls it.

When can a committee stop filing campaign reports?

A Recipient Committee does not automatically terminate and may only cease filing campaign statements when:

1. it has ceased to receive contributions or make expenditures and does not anticipate receiving contributions or making expenditures in the future; *and*
2. it has eliminated, or has declared that it has no intention or ability to discharge, all of its debts, loans received and other obligations; *and*
3. it has no surplus funds; *and*
4. it has filed all required campaign reports disclosing all reportable transactions.

Recipient Committees terminate only after they file the necessary termination statement (FPPC Form 415) with the Secretary of State, with copies to the filing officers with whom campaign statements were last filed.

Independent Expenditure Committees and Major Donor Committees automatically terminate at the end of each calendar year, but Independent Expenditure Committees may still be required to file campaign statements for election activities commenced before the end of that calendar year.

Must a Recipient Committee have a treasurer?

Yes. ALL Recipient Committees must have a treasurer. No contribution or expenditure may be accepted or made by a committee without a treasurer. The treasurer has responsibility for registration (if required), filing of campaign reports, receipt of contributions and approval of expenditures. In addition, the treasurer must keep detailed accounts, records, bills and receipts for all transactions. Personal funds for personal expenditures may *not* be mixed with campaign funds.

Must contributions received for a committee by agents or intermediaries be reported promptly?

Yes. Contributions received by agents of the committee (i.e., paid staff and volunteers working for the committee) must be promptly reported to the treasurer no later than the closing date of the next campaign reports.

Must intermediaries be reported on campaign reports?

Yes. An intermediary is a person who makes a contribu-

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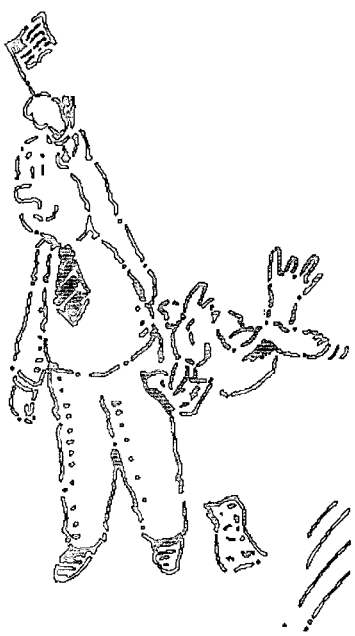
tion to a candidate or committee at the behest of the true donor, when the true donor would not be known to the recipient if not disclosed by the intermediary. The intermediary's name, address, occupation and employer must be reported on the recipient's campaign statement, in addition to the name address, occupation and employer of the actual contributor. Delivering a contributor's check or "bundling" several checks does not make the deliverer or bundler an intermediary.

Who must sign campaign reports?

All campaign reports must be signed by the filer and must state under penalty of perjury that the filer used all reasonable diligence in its preparation and that to the best of the filer's knowledge it is true and complete. Campaign reports filed by committees must be signed by the treasurer.

1. **Candidates and Officeholders.** If the filer of a campaign report is a candidate or officeholder, the statement must be signed by that individual. A candidate or officeholder must verify the truth and completeness of the report as well as his or her use of reasonable diligence in its preparation.



2. **Controlling Candidates and State Ballot Measure Proponents.** A candidate controlling a committee or proponent of a state ballot measure must also sign the campaign report of each committee subject to his or her "control." The candidate or proponent must verify that, to the best of his or her knowledge, the treasurer used all reasonable diligence in preparing the report and that it is true and complete.

3. **Recipient Committees.** If the filer of a campaign report is a "Recipient Committee," the statement must be signed by the committee treasurer. The treasurer must verify that the report is true and complete and that he or she has used all reasonable diligence in its preparation.

4. **Independent Expenditure and Major Donor Committees.** If a committee is a single individual, that individual must sign and verify the committee's report. The verification must certify the signator's own use of reasonable diligence in the preparation of a full and truthful report. If the committee is an entity, other than a "Recipient Committee," the report must be verified by either (1) a responsible officer of the committee, or (2) an attorney or a certified public accountant who acts as an agent for the committee. The officer, accountant or attorney must verify the accuracy and completeness of the report as well as the treasurer's use of all reasonable diligence in its completion.

WHAT MUST BE DISCLOSED?

Are specific forms available to be used by those required to file?

Yes. The following forms *must* be used:

Form 400: **SLATE MAILER ORGANIZATION STATEMENT OF ORGANIZATION.** For use only by Slate Mailer Organizations to register within 10 days of qualifying.

Form 401: **SLATE MAILER ORGANIZATION CAMPAIGN STATEMENT.** For use by Slate Mailer Organizations that receive or are promised $500 or more during a calendar year.

Form 402: **SLATE MAILER ORGANIZATION TERMINATION STATEMENT.** For terminating a Slate Mailer Organization.

FORM 405: **AMENDMENT TO CAMPAIGN DISCLOSURE STATEMENT.** For amending campaign statements previously filed.

FORM 410: **STATEMENT OF ORGANIZATION.** For use only by Recipient Committees to register within 10 days of qualifying. Independent Expenditure Committees and Major Donor Committees do *not* file Statements of Organization.

FORM 415: **RECIPIENT COMMITTEE TERMINATION STATEMENT.** For terminating a Recipient Committee. Independent Expenditure and Major Donor Committees do not use Form 415 because they terminate automatically at the end of each calendar year and must requalify in another year before they incur additional filing obligations.

FORM 419: **RECIPIENT COMMITTEE PRIMARILY FORMED TO SUPPORT OR OPPOSE A BALLOT MEASURE.** Recipient Committees that have been primarily formed to support or oppose a ballot measure or the qualification of a ballot measure must use this form.

FORM 420: **RECIPIENT COMMITTEE CANDIDATE SUPPORT CAMPAIGN STATEMENT.** Recipient Committees that receive one or more cumulative contributions of $100 or more from a single source during a calendar year *must* file this form.

FORM 425: **SEMI-ANNUAL STATEMENT OF NO ACTIVITY.** For use by a non-controlled committee that has not received any contributions and has not made any expenditures during the six-month period covered by a semi-annual statement.

FORM 450: **RECIPIENT COMMITTEE CAMPAIGN STATEMENT — SHORT FORM.** This form may be used by Recipient Committees if no single source contributed $100 or more cumulatively during a calendar year and if the committee has no outstanding loans or accrued expenses. If a committee is not eligible to use Form 450, then Form 419, 420 or 490 must be used. Form 450 is used primarily by political action committees with many small contributors.

FORM 461: **INDEPENDENT EXPENDITURE AND MAJOR DONOR COMMITTEE CAMPAIGN STATEMENT.** For use by Independent Expenditure Committees that do not *receive* contributions, and by Major Donor Committees.

FORM 465: **SUPPLEMENTAL INDEPENDENT EXPENDITURE REPORT.** For use by persons or committees

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that make independent expenditures of $500 or more in a calendar year in connection with a single candidate or measure. This form must be filed *in addition* to any other campaign statement required to be filed.

FORM 470: **CANDIDATE AND OFFICEHOLDER CAMPAIGN STATEMENT—SHORT FORM.** For use only by candidates and elected officeholders who have raised or spent less than $1000, or on whose behalf less than $1000 will be raised or spent, during the calendar year.

FORM 490: **CONSOLIDATED CAMPAIGN STATEMENT.** For use by a candidate filing jointly with one or more of the candidate's committees.

FORM 495: **SUPPLEMENTAL PRE-ELECTION STATEMENT.** For use by any officeholder, candidate or Recipient Committee that makes contributions totaling $5000 or more to candidates or committees primarily formed to support or oppose candidates or ballot measures all being voted upon in a single jurisdiction. This requirement does not apply during any six-month period when the contributing officeholder, candidate or committee is otherwise required to file regular pre-election statements.

FORM 501: **CANDIDATE INTENTION.** For use by candidates to declare their intention to run for a specific office. Must be filed with the FPPC prior to soliciting or receiving any contributions.

FORM 502: **CAMPAIGN BANK ACCOUNT.** For use by candidates to notify the FPPC of the account number and location of the campaign bank account. A separate Form 502 must be filed for each Form 501 filed.

Where can the forms be obtained?

The forms can be obtained from the Secretary of State, Political Reform Division, P.O. Box 1467, Sacramento, CA 95812-1467; the FPPC, P.O. Box 807, Sacramento, CA 95804-0807; and from county registrars of voters and city clerks.

What must be disclosed on a campaign statement?

In summary form, the total of all monetary contributions, unpaid loans, non-monetary contributions, legally enforceable pledges, payments, accrued expenses and cash on hand must be disclosed for the period covered by the disclosure statement. In addition, separate schedules must be completed as discussed below.

Must certain transactions be disclosed in detail?

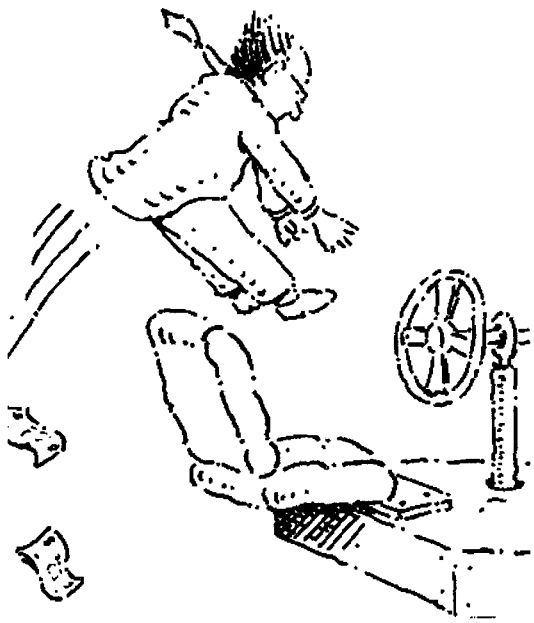
Yes. All contributions (see definition below) received from one source totaling $100 in a calendar year, and all expenditures of $100 or more, must be itemized. Contributions (monetary, non-monetary and loans) of $100 or more from committees must include the date received, the name and address of the committee, the committee's registration number, the amount, and the yearly cumulative amount to date. Contributions of $100 or more from individuals must list the date, name and address, occupation and employer of the contributor, amount, and yearly cumulative amount to date. Expenditures of $100 or more must include the name and address of the payee, the name and address of any subvendors of $100 or more, a description of the services rendered and the amount.

What is a contribution?

A "contribution" includes a payment, gift, advance, dues, or loan, unless it is clear from the surrounding circumstances that it is not made for a political purpose. It includes the purchase of tickets for dinners and other campaign fundraising events, the candidate's own money, discounts or rebates not available to the general public, services and expenses of an employee donated by his employer, forgiveness of a loan, payment of a loan by a third party, and the transfer of anything of value from one committee to another committee. Promises to make a contribution ("pledges") are not contributions and are not reportable at all unless they are legally enforceable. The law also lays out several minor exclusions from the definition of contribution.

Does a "contribution" include voluntary personal services?

No. A "contribution" does not include volunteering or



payments made by a volunteer for his or her own travel expenses, as long as the volunteer does not expect to be reimbursed. Also, donating one's office or home for a campaign meeting or fund-raising event, including the costs of the event, is exempt from the definition of contribution as long as the total cost incurred for each event is $500 or less.

How do you determine the value of a non-monetary contribution?

A non-monetary contribution is valued at the true or estimated fair market value of the goods, services or facilities contributed to the campaign. The fair market value is the price that a person would have to pay to acquire the same goods or services in the open marketplace.

Should a person make a contribution for someone else if the true donor's identity is not clear from the face of the check?

No. A person making a contribution (regardless of the amount) on behalf of another is an "intermediary" who must disclose to the committee receiving the contribution both his or her identifying information and that of the donor actually making the contribution. The information on both the intermediary and the donor must be reported on the recipient's campaign statement.

All contributions of $100 or more must be made by written instrument containing the name of the true contribu-

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tor, regardless of who delivers the check.

Can candidates make contributions to their controlled committees?

Yes, without limit. All funds, however, must be deposited into the candidate's campaign account before they may be spent.

Can candidates and their controlled committees transfer funds between committees?

Yes. Funds may even be transferred to special election campaign accounts (where limits still apply), as long as the amount transferred per donor does not exceed that donor's limit.

Is a loan always a contribution?

A loan received by a ballot measure, candidate or committee is a contribution unless the loan is made by a commercial lending institution in the ordinary course of business or, in the case of a loan to a candidate, it is clear that it is not made for political purposes. Even when a loan is not a contribution, the loan must be reported if it is received by a committee, or received by a candidate and used for political purposes. A guarantee of a loan is also considered a contribution.

Loans made for political purposes to candidates or committees that support candidates are specifically subject to special election contribution limits, although loans by candidates to their own committees from their own assets are not subject to such limits.

What must be reported regarding "loans made" and "loans received" by a candidate or committee?

All loans *received* during the reporting period and all loans *made* during the reporting period must be reported, including the interest rate and due date. Additionally, once each calendar year, the current status of all outstanding loans, both made and received, must be disclosed if the loans were outstanding during any part of the year.

May a committee refuse a contribution and not be required to report it?

Yes. A monetary contribution is not reportable if it is not deposited and is returned to the contributor before the closing date for the campaign statement on which it would otherwise be reported. A "late contribution," received after the closing date of the last pre-election campaign statement and prior to the election day, need not be reported if it is not deposited and is returned to the contributor within 24 hours of receipt.

How should expenditures made to an agent or independent contractor (e.g., an advertising agency) be reported?

Expenditures to any agent or independent contractor (or anyone else who receives payment from a campaign committee and, in turn, pays third parties (subvendors) for goods or services that are provided to the campaign) must be itemized on campaign statements if $100 or more. The report must show both the person receiving payment from the campaign with the amount paid and the subvendors who provided the goods or services. Only subvendors paid $100 or more during the period must be shown with the amounts each received and a description of the goods or services provided. The agent or independent contractor is not required to itemize its own overhead and normal operating expenses.

Must candidates make all campaign-related expenditures directly out of their campaign account?

Yes. A candidate must establish a separate checking account for each statement of intention to be a candidate. He or she must make all expenditures for that candidacy out of that checking account. A savings account, one credit-card and a merchant account are permitted if used only for the expenses associated with the candidacy. No more than $100 may be reimbursed from a petty cash account. Because these rules are FPPC regulations and may change, candidates are advised to check with the FPPC before establishing reimbursement procedures for their campaign.

What are accrued expenses?

Accrued expenses are those bills owed but not paid by the candidate or committee at the closing date for reporting campaign transactions. They include a reasonable estimate of the goods and services received by a campaign, even if the committee has not been billed for them prior to the reporting deadline.

What is meant by "cumulative amount"?

Contribution limits are calculated based on total amount contributed over a special election cycle. But in addition to reporting this amount, the FPPC requires disclosure of cumulative amounts contributed or loaned from a single contributor during the "calendar year." There may be exceptions for ballot measure qualification committees and committees that support candidates in special elections that encompass more than one year.

If a person contributes less than $100 during one reporting period and later that same year contributes enough to equal or exceed $100, must the contributor's identity be disclosed?

Yes. Once a person's cumulative contributions to a committee equal or exceed $100 during a calendar year, the contributor must be identified on the next campaign statement. Monetary and non-monetary contributions and loans from one person must be added together to determine the cumulative amount.

Can campaign reports be amended?

Yes. Form 405 is specifically intended for this purpose. Amending an incomplete or incorrect report is considered evidence of good faith.

WHEN TO FILE

When must campaign statements be filed?

Filing deadlines for campaign statements are determined by the type of committee, the jurisdiction, the candidates and/or measures supported or opposed, and the date of the election.

Semi-annual campaign statements are mandatory for all committees regardless of activity. There are no "off election year" statements other than semi-annual statements, although special reports may be required.

Filing deadlines for different types of committees vary from year to year and jurisdiction to jurisdiction. However, the semi-annual statements required of all committees, which cover the period January 1 - June 30 and July 1 - December 31, are due on July 31st and January 31st, respectively.

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INDEPENDENT EXPENDITURE AND MAJOR DONOR COMMITTEES

All Independent Expenditure and Major Donor Committees are required to file semi-annual campaign statements in each calendar year. This requirement applies to Independent Expenditure and Major Donor Committees participating in elections at the statewide or county level. If all of a Committee's activity is in one city, Independent Expenditure and Major Donor Committees are required to file on pre-election deadlines in that jurisdiction at the same time as the candidates they support, and they must also file semi-annual campaign statements there. Such committees should check with the local filing officer (city or county clerk) for applicable filing deadlines, which vary from jurisdiction to jurisdiction.

RECIPIENT COMMITTEES

Recipient Committees (state, county, and city) generally file semi-annually during non-election years. (See below for special filing requirements.)

During election years, most Recipient Committees will file two pre-election campaign statements before the June primary and two pre-election statements before the November general election, in addition to the usual semi-annual filings. However, state and county general purpose committees are not required to file pre-election statements unless $500 or more in contributions or independent expenditures have been made during the period covered by the statement. City general purpose recipient committees are required to file pre-election statements only during the six-month period in which a municipal election is held. Recipient Committees may have additional filing requirements when they contribute $5,000 or more to state campaigns (see below). Also, during election years, special "late reports" may have to be filed during the 16 days immediately preceding the election.

CANDIDATES AND THEIR CONTROLLED COMMITTEES

All candidates (and their controlled committees) being voted on in June or November are required to file on semi-annual filing deadlines. Additionally, such committees are required to file pre-election statements before the elections when the supported candidate is on the ballot. Candidates and their controlled committees may also have special and "late" filing requirements (see below).

BALLOT MEASURE COMMITTEES AND PROPONENTS OF STATE BALLOT MEASURE COMMITTEES

Ballot measure committees and proponents of state ballot measures who control committees supporting measures to be voted on in June or November are required to file semi-annual statements and pre-election statements on the same deadlines for candidates on the same ballot.

Semi-annual filings are required after the committee has filed a statement of organization. An additional report is due 21 days after the deadline for filing petitions. The post-qualification report must disclose all financial transactions from the close of the last semi-annual statement through seven days prior to the filing deadline.

CANDIDATES, THEIR CONTROLLED COMMITTEES, RECIPIENT COMMITTEES, INDEPENDENT EXPENDITURE AND MAJOR DONOR COMMITTEES PARTICIPATING IN ELECTIONS HELD IN MONTHS OTHER THAN JUNE AND NOVEMBER OF EVEN-NUMBERED YEARS

In addition to mandatory semi-annual statements, pre-election statements are required to be filed as follows:

40 days prior to the election (for campaign transactions ending 45 days prior to the election);

12 days prior to the election (for campaign transactions ending 17 days prior to the election);

If a runoff election is held within 60 days of the qualifying election, an additional pre-election statement is due no later than 12 days before the runoff election (for campaign transactions ending 17 days before the election).

Committees do not need to file specific "post election" reports other than the semi-annual statements.

Are there any special campaign statements required?

Yes. Recipient Committees that make contributions of $5000 or more during the six months prior to an election, including a run-off election for which the Recipient Committee is *not* filing pre-election statements, must file a supplemental pre-election statement (Form 495) and a regular campaign statement (Form 419, 420, 450 or 490) no later than 12 days before the election for the period ending 17 days before the election. This statement is to be filed with each office with which the Recipient Committee will file its next regular campaign statement.

Additionally, Recipient Committees and Major Donors that contribute $5000 or more to state candidates in a calendar quarter *in odd numbered years only*, and that do not file a lobby disclosure report or a campaign statement filed with the Secretary of State covering that same period, must file a report (FPPC Form 420, 450, or 461) for that calendar quarter by the last day of the next month, with all filing officials with whom filings are normally made.

Must contributions and independent expenditures aggregating $1000 made or received during the last few weeks before an election be separately reported?

Yes. A "late contribution report" must be filed by any filer within 24 hours if the filer makes a monetary or non-monetary contribution or loan aggregating $1000 or more to a candidate or ballot measure being voted upon at an upcoming election, when the contribution is made after the closing date of the last campaign report filed before an election but before the election itself (i.e., during the last 16 days before the election). The recipient must also file such a "late contribution report."

Both the contributor and the recipient must report to the applicable filing officer the date, amount and full identification of the contribution by telegram, mailgram, personal delivery or guaranteed overnight service. Filers must also describe any non-monetary contributions. (Facsimile reporting is not yet available at all filing locations.) The recipient of such a contribution must also report the name, address, occupation and employer of the contributor within 24 hours of receiving the contribution.

A "late independent expenditure report," which lists an independent expenditure aggregating $1000 or more during this same period, must also be reported within 24 hours. A committee that makes a late independent expenditure must identify fully the candidate's name, office, and district or measure's number or letter and jurisdiction. In addition, the date and amount of the expenditure, and a description of the goods and services must be provided.

"Late contributions" and "late independent expenditures" must *also* be reported on the next semi-annual campaign report filed after the election.

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Are there exceptions to the numbers of campaign statements that must be filed?

Yes. Elected officeholders whose salaries are less than $100 a month and judges need not file semi-annual campaign statements unless they receive contributions or make expenditures during the period. Local jurisdictions may impose additional filing requirements.

WHERE TO FILE STATEMENTS

Where must campaign statements be filed?

Except for city-only elections, two copies must always be filed with the clerk of the county in which the person or committee is domiciled, as determined by the address on the campaign statement (out-of-state filers file in Los Angeles County). Additional filings must be made as follows, provided that no more than two copies need be filed in any one county:

Statewide officeholders, candidates, Supreme Court justices, and their supporting committees, committees supporting or opposing statewide measures and state general purpose committees:

Original plus one copy with the Secretary of State, P.O. Box 1467, Sacramento, CA 95812-1467; two copies with the Registrar-Recorder of Los Angeles County, Campaign Reporting Unit, 5597 Ferguson Drive, Commerce, CA 90022; two copies with the Registrar of Voters of the City and County of San Francisco, Campaign Statements, Room 158, City Hall, San Francisco, CA 94102.

Candidates for and members of the Legislature, appellate and superior court, and State Board of Equalization and supporting or opposing committees:

Original and one copy with the Secretary of State; two copies with the clerk of the county with the largest registration in the district affected.

Other multi-county candidates and measures and supporting committees (but not statewide):

Original and one copy with the clerk of the county having the largest registration.

Single-county candidates and measures and supporting committees:

Original and one copy with the county clerk.

Single-city candidates and measures and supporting committees:

Original and one copy with the city clerk.

How may the statements be filed?

Campaign statements may be delivered by hand by the deadline. Statements sent by first-class mail are considered received on the date of deposit in the mail. If lost in the mail, the candidate or committee must possess a post office receipt showing that the report was mailed.

The final pre-election campaign statement must be personally delivered or sent by guaranteed overnight service. Late contribution or late expenditure reports must be personally delivered or reported by mailgram, telegram, or guaranteed overnight service.

SLATE MAILER ORGANIZATIONS

What is a "slate mailer" organization?

A "slate mailer" organization is a special filing entity (much like a Recipient Committee). A "slate mailer" is a mass mailing that supports or opposes a total of four or more candidates or ballot measures. A "person" is a slate mailer organization if the person is directly or indirectly involved in the production of one or more slate mailers, exercises control over the selection of candidates or measures supported or opposed, and receives or is promised payments of $500 or more in a calendar year to produce the mailers. Certain candidates, their controlled committees, official political party committees and committees primarily formed to support a single candidate or measure are not "slate mailer" organizations and file as regular Recipient Committees.

How does a slate mailer organization report its activity?

A slate mailer organization discloses payments or contributions received that cumulate $100 or more during a calendar year from any person or committee and expenditures of $100 or more paid to any vendor and subvendor for the purposes of producing and distributing slate mailers. Payments by candidates or committees are disclosed, as well as the names and addresses of candidates and measures supported on the slate mailers. New law effective January 1, 1992, requires the naming of the political party affiliation of any candidate on the slate if: (a) the candidate's affiliation is different from the party the mailer "appears to represent", and (b) the candidate seeks a partisan office. This disclosure must be in not less than 9-point type, located immediately below the candidate's name.

Are there special rules for identifying a slate mailer organization?

Yes. Slate mailer organizations must identify themselves by name and address in at least 8-point type both on the outside and at least one insert piece (in contrasting color or point to be easily legible).

In addition, slate mailer organizations must include a special, boxed notice in 8-point Roman bold type on any surface of a postage card or self-mailer indicating that such organization is not an official political party organization, and specifically identifying candidates or ballot measures that have paid to appear in the slate mailer. Such "paid for" designations must be made in 10-point type.

When does a slate mailer organization file campaign reports?

A slate mailer organization files semi-annual campaign statements for each semiannual period in which it has received or expended $500 or more for producing one or more slate mailers.

In addition, such organizations file periodic pre-election campaign reports and late reports on the same schedules as Recipient Committees.

A slate mailer organization also must file special late reports during a period after the closing date for the last pre-election campaign statement but before the election if it receives any payment of $2500 or more for the purpose of producing a slate mailer.

Must a slate mailer organization have a treasurer?

Yes.

PROHIBITIONS

Are anonymous contributions prohibited?

A donor cannot make anonymous contributions totaling

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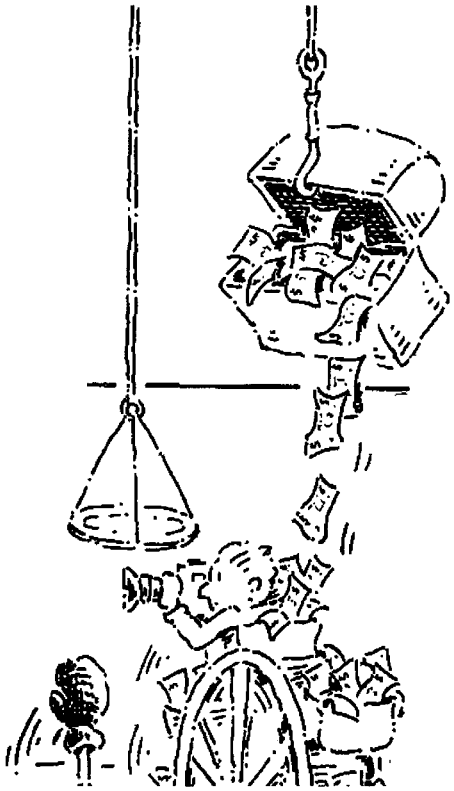

$100 or more in a calendar year to a campaign. Any anonymous contribution of $100 or more received by a candidate or committee must be turned over to the Secretary of State.

Does California law limit cash transactions?

Yes. No monetary contributions or expenditures of $100 or more may be made in cash. Transactions of $100 or more must be made by check or other written instrument containing the donor's name. The fair market value of all non-monetary contributions of $100 or more must be reported in writing by the contributor to the recipient, if the recipient makes a written request.

Are lobbyists prohibited from making campaign contributions to state candidates?

No. However, the lobbyist must report all personal contributions of $100 or more and all contributions of others delivered personally by the lobbyist to state candidates. Lobbyists may also contribute to candidates in local and federal elections and to ballot measure campaigns, but need not disclose such contributions on their state lobbyist report.

May campaign contributions be personally delivered at the State Capitol or in other state office buildings?

No. However, they may be mailed to the recipients at those locations.

May a lobbyist make or arrange a gift to a legislator or other state official?

Not if the lobbyist's gifts to the public official total more than $10 in a month. Even if the gifts are less than $10 in a month, gifts will count against the gift limits and must be reported by the lobbyist's employer.

Are there limitations on gifts and honoraria that can be made or paid to elected officials?

Yes. Effective January 1, 1991, combined gifts and honoraria to an elected local official are limited to $1000 per calendar year from a "single source." For state elected and appointed officials, the limit on gifts is $250 per calendar year per "single source." State elected and appointed officials can not accept *any* honoraria (speech or appearance fees). There is no limit on gifts or honoraria to local *appointed* officials. A "single source" includes closely related business entities, a business and its owners, and organizations directed by the same individuals.

What identification is required on campaign literature?

All mass mailings (200 or more pieces of substantially similar material) must show the sender's name and address in six-point type or larger on the envelope, and, if more than one person or committee sent out the mailing, on at least one insert piece. If the sender is a controlled committee, the name of the person controlling the committee must be included. A sponsored committee sending a mass mailing must identify its sponsor. A post office box is permitted if the committee address is a matter of public record with the Secretary of State.

The *sender* is considered the individual, business entity or committee that pays for the largest portion of the cost of the designing, printing and posting of the mass mailing. If the mass mailing is a contribution to a candidate or ballot measure committee, both the payer and the candidate or committee may be "senders" who must be identified. No mass mailing that features an incumbent elected officeholder may be sent at public expense.

Can a contribution to a public official's campaign ever require that public official to disqualify him or herself from participating in a governmental decision affecting the person who made the contribution?

Yes. Members of certain state and local agencies are prohibited from participating in a governmental decision involving a license, permit or other entitlement for use if the applicant (or agent) in the proceeding contributed $250 or more to the public official in the preceding 12 months or the official solicited such a contribution for him or herself or another. These same disqualification rules apply to members of the State Board of Equalization.

Does California law restrict *expenditures* by campaigns?

There is no limitation on expenditures in a campaign. However, campaign and political action committee funds may not be spent for *personal* use. The disposition of the funds left over when a committee terminates is also limited to specific, non-personal uses.

Does federal law apply to California state or local candidate contributions?

Generally no, except that federal law prohibits a foreign national, foreign corporation, United States national bank or federally established corporation (like a federal savings and loan association) from contributing to state or local candidates.

MISCELLANEOUS

Must candidates and committees be concerned with tax considerations?

Yes. Income tax must be paid on interest, dividends and capital gains of more than $100 per year earned by a campaign. Internal Revenue Service, Board of Equalization, and California Franchise Tax Board Regulations must also be followed.

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Will campaigns be audited?

Candidates and committees are randomly selected for audit by the Franchise Tax Board. Additionally, the Fair Political Practices Commission or the Franchise Tax Board may initiate a discretionary audit.

Must candidates disclose certain personal financial activities?

Yes. California law requires financial disclosure of investments and real estate by all candidates. Once elected, state and local elected officials must file an annual Statement of Economic Interest, disclosing income, loans, gifts, investments, real estate and business positions held.

LOCAL CAMPAIGN ORDINANCES

A local government may adopt its own campaign ordinances, in addition to the state laws, as long as they further the purposes of the Act and do not conflict with any of its provisions. The ordinances that have been enacted by cities and counties to date vary from jurisdiction to jurisdiction. Some cities and counties prohibit corporations from contributing to campaigns (e.g., City of San Diego); others limit the amount that may be contributed to campaigns by individuals, companies and political action committees (e.g., San Francisco and Los Angeles) still others require additional campaign statements to be filed before local elections (e.g., Walnut Creek).

Cities and counties that have adopted campaign ordinances include:

Adelanto
Agoura Hills
Belmont
Berkeley
Carlsbad
Chico
Chula Vista
Commerce
Concord
Contra Costa County
Coronado
Culver City
Davis
Del Mar
Dublin
Escondido
Fountain Valley
Fremont
Fresno
Gardena
Gilroy
Goleta Water District
Grand Terrace
Hermosa Beach
Huntington Beach
Irvine
Livermore
Los Angeles City
Moreno Valley
Newport Beach
Orange County
Palo Alto
Poway
Rancho Mirage
Sacramento
Sacramento County
San Diego
San Diego County
San Francisco
San Jose
San Juan Capistrano
San Luis Obispo
Santa Cruz County
Santa Monica
Santee
Sonoma County
South San Francisco
Stockton
Tracy
Walnut Creek
West Covina

Other cities and counties may have enacted ordinances since the date of publication, and these cities and counties may be amending their ordinances in the wake of the invalidation of Proposition 73's limits. Candidates, contributors and committees should therefore contact the clerk of the city or county before becoming involved in local campaigns. Local ordinance information also can be obtained by calling the Fair Political Practices Commission at (916) 322-5662.

FEDERAL LAW

(United States Code, Title 2, Sections 431-455)

What is the basic purpose of the Federal Election Campaign Act?

The federal law requires candidates, political committees and, in some instances, individuals to keep full and accurate records of political financial transactions and to file periodic public reports disclosing these transactions. The law also sets limits on the amount of money individuals and groups may contribute to federal candidates.

Who administers the Federal Election Campaign Act?

The Act is administered by the Federal Election Commission (FEC), 999 E Street, N.W., Washington, D.C. 20463. In addition, the Clerk of the House of Representatives and the Secretary of the Senate, Washington, D.C. 20510, have responsibilities as filing officers.

WHO MUST FILE

Who must file campaign reports under federal law?

Only candidates seeking nomination or election to federal office (president, vice president, United States Senate and House of Representatives), political committees supporting those candidates, and certain private groups involved in federal elections (business, union, trade association and political action committees) are governed by the filing requirements of the Act.

Are candidates for state or local office and their committees required to file federal campaign statements?

No.

What constitutes an "election" under federal law?

The term "election" includes not only general, primary, special and runoff elections, but also conventions, caucuses and preference primaries for the purpose of nominating candidates for federal office.

Who is a federal candidate?

An individual who seeks nomination or election to a federal office and has received contributions or made expenditures in excess of $5,000, or has consented to that level of campaign activity on his or her behalf, is considered a candidate. Funds received or payments made to determine whether an individual should become a candidate are subject to limitations and prohibitions, but are neither contributions nor expenditures if the individual does *not* become a candidate. However, if the individual becomes a candidate, the funds and/or payments are considered contributions and/or expenditures and must be reported on the first report filed by candidate.

Are federal candidates required to designate campaign committees for reporting purposes?

Yes. A candidate for federal office (other than a nominee for vice president) must designate and authorize a political committee as the "principal campaign committee" within 15 days after attaining candidate status. The candidate may also

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designate other committees, known as "authorized committees," to receive or make contributions. Candidates are considered to be agents of their authorized committees, and therefore must report all contributions and expenditures through their committees. The principal campaign committee and other authorized committees must include the name of the candidate in each committee's name. In addition, the principal campaign committee may not support more than one candidate (except that committees may conduct joint fund raising). However, a candidate's authorized committee may contribute up to $1,000 per election to other candidates.

What is a "political committee" under federal law?

Federal law defines three types of political committees:

1. Any committee, club, association or group of persons receiving contributions or making expenditures totaling more than $1000 for federal elections in a calendar year (similar to California's Recipient Committee).
2. A Political Action Committee (PAC) (referred to under federal law as a *separate segregated fund*) established by a labor organization, corporation, or incorporated membership organization regardless of the level of contributions or expenditures.
3. Any local committee of a political party that receives contributions or makes "exempted" expenditures (including buttons, bumper stickers, voter registration, get-out-the-vote efforts) totaling over $5000 for federal elections during a calendar year, or that makes contributions to candidates or "non-exempt" expenditures over $1000 for federal elections during a calendar year.

The FEC has further described several types of political committees, including:

1. **PRINCIPAL CAMPAIGN COMMITTEE** — a political committee designated by a candidate as his or her principal campaign committee.
2. **SINGLE CANDIDATE COMMITTEE** — a political committee other than a principal campaign committee that makes or receives contributions or makes expenditures on behalf of only one candidate.
3. **MULTICANDIDATE COMMITTEE** — a political committee that (i) has been registered for at leastsix months; (ii) has received contributions for use in federal elections from more than 50 persons; and (iii) (except for any state political party organization) has made contributions to five or more federal candidates.
4. **PARTY COMMITTEE** — a political committee that represents a political party and is part of the official party structure at the national, state or local level.

In addition, the FEC has determined that all political committees are either authorized committees or unauthorized committees. An "authorized committee" is a political committee that is empowered in writing by a candidate to solicit or receive contributions or make expenditures on behalf of the candidate. A principal campaign committee is an authorized committee. An "unauthorized committee" is a political committee that has not been authorized in writing by a candidate to solicit or receive contributions or make expenditures on behalf of the candidate.

Must a political committee have a treasurer?

Yes. Contributions may not be received unless a committee has a treasurer. A treasurer is officially designated on a candidate's Statement of Organization. All expenditures must be authorized by the treasurer or appointed agents. The treasurer is responsible for keeping an account of all contributions and expenditures, and for the timely and accurate filing of reports. Personal funds for personal expenditures may not be commingled with campaign funds. Contributions over $50 must be forwarded to the treasurer or agent within 10 days of receipt, along with the contributor's name and address. A committee needs no other officer under federal law but may designate others, including an assistant treasurer.

Must political committees register?

Yes. All authorized committees must register within 10 days after designation by a candidate. PACs must register within 10 days of establishment. All other committees must register within 10 days of qualification as a political committee. A committee registers by filing a Statement of Organization. A PAC must include the full name of its connected or sponsoring organization, but may use a clearly recognized abbreviation or acronym. The name of each authorized committee must include the name of the authorizing candidate.

Political committees supporting only House candidates and a House candidate's authorized committees, including the principal campaign committee, register with the Clerk of the House. Political committees supporting only Senate candidates and a Senate candidate's authorized committees, including the principal campaign committee, register with the Secretary of the Senate. All other committees register with the FEC. Once a committee registers, it will be issued an identification number.

Must a person (other than a political committee) file a campaign statement with the Federal Election Commission?

If a person contributes to a federal candidate or to a political committee, that candidate or committee must report the contribution, and the person need *not* file a campaign statement. Any individual, association, partnership or group, other than a political committee, that makes an independent expenditure of more than $250 in a calendar year must file a campaign statement with the FEC. The statement contains information regarding the nature of the expenditure. A political committee may also make independent expenditures and, if it does so, must report these on a separate schedule of its campaign report.

WHAT MUST BE DISCLOSED?

Are forms available for persons required to file?

Yes. Forms are available from the FEC, Clerk of the House and Secretary of the Senate.

FORM 1: **STATEMENT OF ORGANIZATION.** Used to register committees supporting federal candidates.

FORM 2: **STATEMENT OF CANDIDATE.** Once attaining federal candidate status, this form is used to authorize the principal campaign committee.

FORM 3: **REPORT OF RECEIPTS AND EXPENDITURES.** For use by political committees in reporting all financial transactions including contributions and expenditures. There are separate forms for presidential (Form 3P), authorized congressional candidates (Form 3) and all other federal political committees (Form 3X).

FORM 5: **REPORT OF INDEPENDENT EXPENDITURES OR CONTRIBUTIONS BY PERSONS.** For use by

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every person (other than a political committee or candidate) who makes independent expenditures or contributions in an aggregate amount in excess of $250 within a calendar year.

FORM 7: REPORT OF COMMUNICATION COSTS BY CORPORATIONS AND MEMBERSHIP ORGANIZATIONS. For use by corporations, unions, and membership organizations to report costs of communicating with their stockholders and executive or administrative personnel or members in support of or opposition to a federal candidate if such costs exceed $2000 per election.

What information is required to be reported by a political committee?

In summary form, the total of all contributions, expenditures and cash on hand.

By item, all transfers and contributions to and from other political committees or federal candidates regardless of the amount.

By item, all contributions from a person aggregating over $200 within a calendar year — including contributor's name, mailing address, occupation, employer, date of contribution and amount. (In addition, in-house records must be kept of all contributions over $50 — including name, address and date of contribution.)

By item, all loans (including guarantors) and loan repayments, including date, name, address, occupation and employer, and amount and interest rate.

By item, all rebates, refunds, dividends and interest over $200 within a calendar year — including name, address, date and amount.

By item, all expenditures for operating expenses over $200 during a calendar year — including the recipient's name, address, date and amount and purpose of expenditure.

By item, all contributions regardless of amount made to other federal committees by name and address, name of candidate, district, state and office, date and type of election, date of contribution and amount, including calendar year total.

The amount and nature of debts owed to or by the committee.

What constitutes a contribution under federal law?

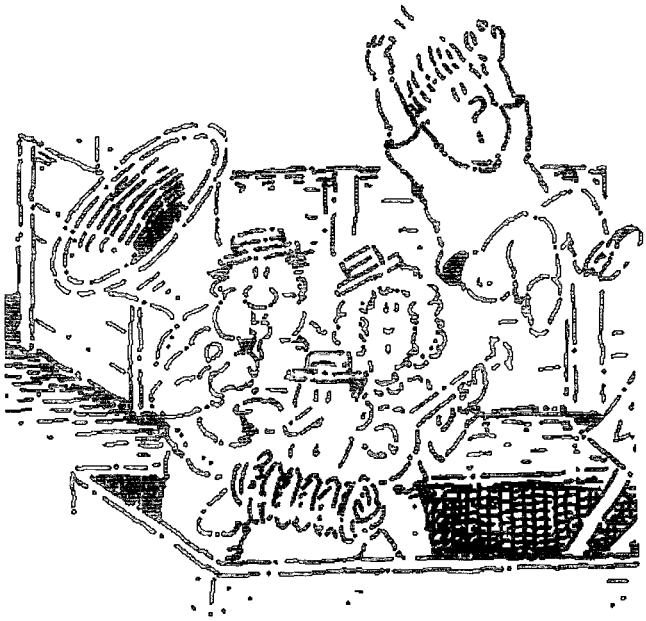
Any gift, subscription, loan, advance or deposit of money, or anything of value, made for the purpose of influencing a federal election is a contribution. A non-monetary contribution, such as the use of office space, machinery, equipment, or the help of individuals donated by or paid for by a person other than the committee or candidate, is also a contribution.

How are non-monetary contributions treated?

Non-monetary contributions, such as lending an automobile, employee, typewriter or giving paper and stamps, are subject to the same prohibitions, limitations and reporting requirements as monetary contributions. Non-monetary contributions should be valued at their usual and normal charge.

Are loans always contributions?

A loan is generally a contribution to the extent that the obligation remains outstanding. However, a loan of money by a national or state bank made in the ordinary course of business is not a contribution (although it must still be reported). To be considered made in the ordinary course of business, the loan must be in writing, subject to a due date or amortization schedule and bear the usual interest rate.



Are there other exceptions to the definition of contributions?

Yes. Contributions do *not* include voluntary personal services, unreimbursed travel expenses by campaign volunteers up to $1000 per election, rental value of one's home, and the cost of invitations, food and beverages provided voluntarily at an individual's home up to $1000 per election per person. Services rendered by a lawyer or accountant for the purpose of complying with federal election laws are also exempt but must be reported by the campaign. Also, certain political party expenditures for items that mention a specific federal candidate (e.g., bumper strips, buttons, and slate cards featuring three or more federal and non-federal candidates) or that are produced with significant volunteer involvement and do not involve public (newspaper, radio, television, or vendor-produced direct mail) advertising are exempt from the definition of contribution.

Is a contribution to an individual before he or she declares as a candidate disclosable?

Funds received solely for the purpose of determining whether an individual should become a candidate (i.e., "testing the waters") are not considered contributions; nevertheless, expenditures for "testing the waters" can only be funded from sources that would be legal contributions under the Act. If the individual subsequently becomes a candidate, these funds are considered contributions and subject to both the limits and the reporting requirements of the Act.

What constitutes an expenditure under federal law?

Expenditures that must be reported include payments of money, transfer of funds to another political committee, repayment of loans, and written contracts to make expenditures.

What constitutes an independent expenditure under federal law?

An expenditure is independent if it pays for a communication that expressly advocates the election or defeat of a federal candidate and is not made in cooperation or consultation with a candidate or an authorized committee of that candidate.

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What is "cumulative amount" under federal law?

"Cumulative amount" means the amount contributed or expended since January 1st of the present calendar year. Each calendar year is considered separate, and the only carry-over to a successive calendar year is the beginning cash balance.

If a contributor has already been listed in a previous report, and additional contributions of any amount are received from that contributor *within the same calendar year*, the contributor must be listed on the prescribed reporting forms, using the same name as previously reported and showing the new cumulative amounts.

WHEN TO FILE STATEMENTS

How many reports must be filed in a federal election?

All contributions to and expenditures by candidates are reported by their principal committee (consolidated with all authorized committees). In election years, committees authorized by House and Senate candidates file quarterly reports (15 days following the close of the quarter), a pre-primary report (12 days prior, or 15 if by mail), a pre-general report (12 days prior, or 15 if by mail), and a post-general report (30 days after the election). In non-election years, authorized committees file semi-annual reports due July 31st and January 31st.

Monthly filing is required in an election year for all authorized committees of a presidential candidate if the committees have received or anticipate receiving $100,000 or have spent or anticipate spending $100,000. All other presidential committees in election years are required to report quarterly. In non-election years, authorized committees of presidential candidates may elect to report either quarterly or monthly.

All other political committees may file monthly. In the alternative, during election years, they may file quarterly, pre-primary, pre-general and post-general election reports for every election in which they have spent funds; during non-election years, they may file semi-annual reports.

Must "last-minute contributions" be reported in a special manner?

Yes. Contributions of $1000 or more received by a candidate or his or her authorized committee after the 20th day but more than 48 hours before an election must be reported by the candidate's principal campaign committee within 48 hours by hand-delivered letter or by telegram disclosing the contributor's name, occupation and employer, amount, date and office sought. The donor of such contribution need not also file such a report even if it is a committee.

Independent expenditures of $1000 or more during the last 20 days must be reported within 24 hours.

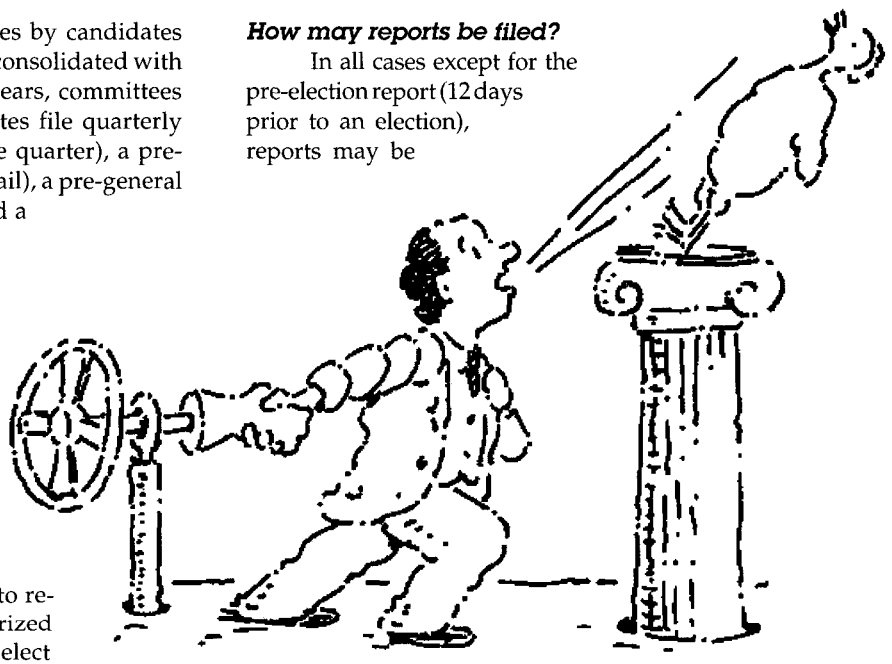
WHERE TO FILE REPORTS

Where must campaign reports be filed?

Authorized committees of a candidate file reports with the candidate's principal campaign committee. The principal campaign committee then files a single report for that campaign. House candidates' principal campaign committees file an original with the Clerk of the House of Representatives, Washington, D.C. 20515. Senate candidates' principal campaign committees file an original with the Secretary of the Senate, Washington, D.C. 20510. All other committees file an original with the Federal Elections Commission, 999 E Street, N.W. Washington, D.C. 20463, including multi-support committees and persons making independent expenditures. The Clerk of the House and the Secretary of the Senate immediately forward copies of all their reports to the FEC. In addition, a copy of all reports must be filed with the Secretary of State of each state in which the candidate seeks election. Records and reports are required to be kept for three years after filing.

How may reports be filed?

In all cases except for the pre-election report (12 days prior to an election), reports may be hand-delivered or sent by registered or certified mail and postmarked by the filing deadline. Pre-election reports must be hand-delivered 12 days before the election or postmarked registered or certified not later than the 15th day before the election.



PROHIBITIONS AND LIMITATIONS

Does federal law limit cash contributions?

Yes. No one may make a cash contribution to a federal candidate that totals more than $100.

Does federal law impose contribution limitations on individuals?

Yes. An individual may contribute $1000 to a single federal candidate's authorized committee (including the principal campaign committee) for the primary and another $1000 for the general election. All presidential primaries are treated as a single election. Runoff and special elections are treated as separate elections. In addition, each $1000 contribution may be

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given at the same time if designated by the contributor for each separate election. There is a $5000 annual limitation on contributions to a political committee such as a separate segregated fund, except that the limit is raised to $20,000 for contributions to national party committees. Also, there is a $25,000 limit on the total amount an individual may contribute to all federal candidates and committees in a calendar year. (Contributions to candidates count against this limit in the year of the candidate's election, instead of the year the contribution is made.)

If an individual makes a contribution to a federal candidate that exceeds the limits for one election (e.g., a primary), the contribution may be "redesignated" by the same contributor to another election (i.e., from the primary election to the general election) if the "redesignation" is within the contributor's limit for the general election and is made in writing within 60 days of original receipt.

How do the contribution limitations apply to spouses?

Even though one person in a single-income family has contributed $1000 to a candidate for an election, the spouse may also contribute another $1000 to the same candidate for the same election.

If a contribution is received by a candidate that exceeds one spouse's contribution limits to the candidate for an election, it may be "reattributed" to the other spouse if the reattribution is within the other spouse's contribution limits to the candidate, and the "reattribution" is made by the spouse in writing within 60 days of original receipt.

What are the contribution limitations imposed on political committees?

For small committees, the limitations are the same as for individuals. However, multi-candidate committees (defined above) may contribute up to $5000 to a federal candidate for each single election, and can contribute $15,000 to the national party committee per calendar year. Committees have no overall annual limit.

Are campaign expenditure limitations imposed by federal law?

No. As originally adopted federal law did limit campaign expenditures. However, the United States Supreme Court in *Buckley v. Valeo* [(1976) 424 U.S. 1] held that such expenditure ceilings impose "direct and substantial restraints on the quantity of political speech" and as a result violate the First Amendment to the United States Constitution. Presidential candidates who accept public funding for either the prenomination or the general-election campaign, however, must abide by the spending limits found in the Act.

Are there personal-contribution limitations imposed on the candidate?

No. Candidates (except for presidential candidates using public financing) may spend unlimited amounts of personal funds. (Note: The FEC has regulations defining what types of funds constitute personal funds.)

Does federal law impose limitations on the total amount persons or committees may spend "independently" on behalf of federal candidates?

No. Because of the United States Supreme Court's *Buckley* decision, there is no limitation on a truly independent expenditure made on behalf of a federal candidate. Thus, a person or committee may spend unlimited amounts for direct purchase of newspaper ads to influence an election, if done independently of the candidate. (See above discussion for how to report independent expenditures.) In 1985, the United States Supreme Court ruled that independent expenditures in presidential campaigns in which the candidate had accepted public funding could similarly not be limited. Contributions *to* committees making independent expenditures can be limited to $1000 if the committee only makes independent expenditures for one candidate, or $5000 if the committee intends to support or oppose more than one candidate.

Can corporations or labor organizations make contributions or expenditures on behalf of federal candidates?

No, but corporations and labor organizations are permitted to establish separate political funds (commonly called PACs) if the donations to the PACs are voluntary. However, corporations and unions may make certain political expenditures. For example, a corporation may spend money for communication to its executives and stockholders or a union to its members on any subject, and non-partisan registration and get-out-the-vote efforts aimed at stockholders or union members are permitted.

Costs of communications expressly advocating the election or defeat of a candidate must be reported if over $2000 per election.

What other restrictions are applicable?

Contributions to federal, state or local candidate campaigns by national banks, corporations organized by federal statutes (savings and loans, etc.), federal government contractors and foreign nationals who are not lawfully admitted for permanent residence in the United States are all prohibited, as are anonymous contributions of $50 or more.

Is campaign literature for a federal office required to contain certain information?

Yes. All literature and advertisements soliciting contributions and all communications advocating the election or defeat of a federal candidate must identify the person or committee that paid for the solicitation or communication. If the solicitation or communication is not authorized by the candidate or his/her committee, it must so state.

What use can be made of excess campaign funds?

Generally, excess campaign funds may not be used by any person for any personal use other than to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of federal office, or to repay to a candidate any loan the proceeds of which were used in connection with his or her campaign.

Does the Federal Elections Act place a limit on the amount of honoraria elected federal officials may receive?

Yes. Payments to senators and members of Congress of honoraria for individual speeches, appearances or articles are prohibited. A donor may make a $2000 payment to a charity designated by the public official. The United States Senate and the House of Representatives by rule have imposed limitations on the amount and sources of gifts to elected representatives. The Senate Ethics Office and House Committee on Administration should be consulted with specific questions about these rules.

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MISCELLANEOUS

Does the federal law require candidates and office-holders to disclose publicly their personal finances under financial disclosure provisions?

Yes. United States senators and members of the House of Representatives and candidates for these offices are required to file financial disclosure statements with the Clerk of the House of Representatives and the Secretary of the Senate, respectively. These reports must also be forwarded to the Secretary of State of the state that the individual represents and are available for public review.

Must federal candidates and political committees be concerned with tax considerations?

Yes. Any income over $100 per year (interest, dividends, sale of assets, etc.) earned from contributions is subject to payment of income taxes by the candidate, officeholder or committee. Federal law has eliminated the tax credit to individuals for contributions to candidates for public office. California residents are permitted to take a small tax credit for contributions to candidates and ballot measures on their state return.

SOURCES OF DETAILED INFORMATION

STATE

FAIR POLITICAL PRACTICES COMMISSION, 428 J Street, Suite 800, P.O. Box 807, Sacramento, CA 95804-0807. (916) 322-5662. Prints monthly newsletter.

REGULATIONS: CALIFORNIA ADMINISTRATIVE CODE, TITLE 2, DIVISION 6. Barclays Law Publishers, P.O. Box 3066, South San Francisco, CA 94080. (415) 244-6611.

CONTINUING EDUCATION OF THE BAR, 2300 Shattuck Avenue, Berkeley, CA 94704. (415) 642-3973. Official reporter of Fair Political Practices Commission opinions and enforcement decisions and publisher of "The Law of Politics" book.

THE CORPORATION IN POLITICS, PACS, LOBBYING LAWS AND PUBLIC OFFICIALS, by Vigo G. (Chip) Nielsen Jr. and Kenneth R. Gross (outline manual); Practicing Law Institute, 810 Seventh Avenue, New York, NY 10019.

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FEDERAL ELECTION COMMISSION, 999 E Street, N.W., Washington, D.C. 20463. (800) 424-9530. Prints monthly newsletter.

THE CORPORATION IN POLITICS, PACS, LOBBYING LAWS AND PUBLIC OFFICIALS, by Vigo G. (Chip) Nielsen Jr. and Kenneth R. Gross (outline manual); Practicing Law Institute, 810 Seventh Avenue, New York, NY 10019.

FEDERAL REGULATION OF CAMPAIGN FINANCE AND POLITICAL ACTIVITY, by Thomas J. Schwartz and Alan G. Straus (manual), Matthew Bender & Company, 1275 Broadway, Albany, NY 12201. (518) 462-3331

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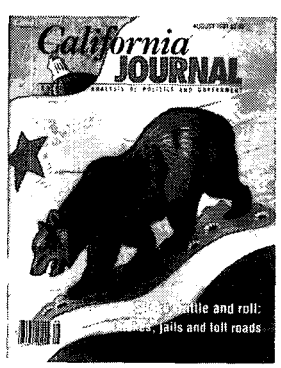

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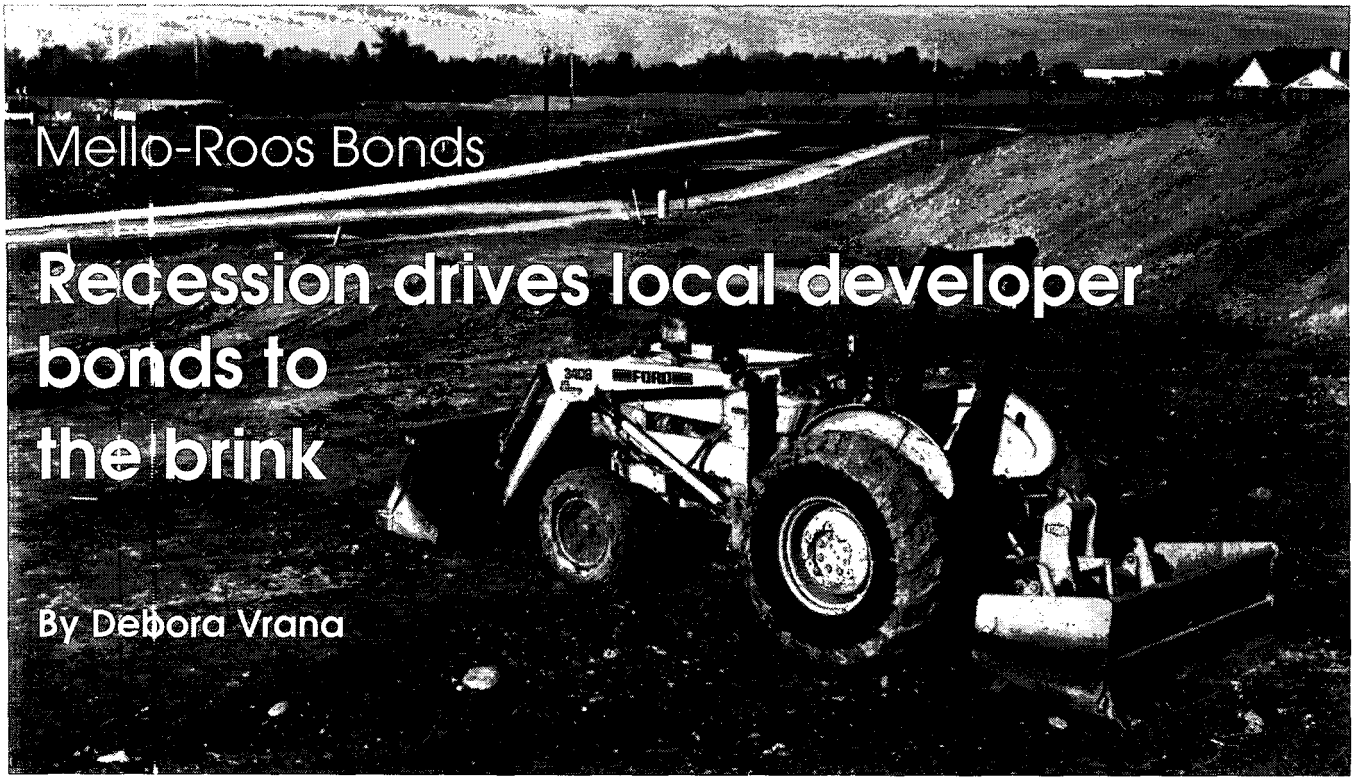

Mello-Roos Bonds

Recession drives local developer bonds to the brink

By Debora Vrana

Photo by Rich Pedroncelli

Like a consumer with a low-interest credit card, California racked up nearly record levels of bond debt at both the state and local levels during 1991.

True, the state has millions more people than ever before. And true, Proposition 13 has gutted the ability of local governments to raise property taxes as funding for needed growth-related projects. As a result, tax-exempt bonds of varying species have increasingly been a flexible lifeboat for California's cities, counties and special districts struggling to pay for new schools, sewers and highways.

In spite of the big numbers — an expected $30 billion worth of state and local bonds in 1991 — California's overall debt load remains moderate compared to other states. But with the lingering recession and real estate slump, many money experts are beginning to question not only the fiscal health of the Golden State, but the safety of a particular type of California municipal bond.

Both Wall Street and Main Street have expressed fears that land-backed municipal securities, known as Mello-Roos bonds, could be vulnerable to defaults because of plummeting values in the California real estate market. In a worst-case scenario, defaults could hurt the credit ratings of bond issuers, burn bondholders and may leave some local governments holding the bag for bond payments. As an example of what could happen in California, critics point to Colorado, where more than $500 million worth of bonds, similar in structure to California's, defaulted during the late 1980s.

But the dire default predictions of Mello-Roos bonds — voiced by analysts and picked up be newspapers such as *The Wall Street Journal* — are criticized by local experts as "considerably overblown," and just another example of "California bashing." Some public-finance professionals here point out that there has never been a Mello-Roos bond default, and that California's Mello-Roos bonds are significantly different from their cousins in Colorado. Critics, they say, just don't understand California.

The controversy rages around bonds sold under the Mello-Roos Community Facilities Act of 1982. Mello-Roos bonds, named for their legislative sponsors, have financed more than $3.2 billion of California growth-related infrastructure needs. The bond proceeds have paid for new schools, sewers, lighting, street improvements and, in rare cases, police or fire services (see *CJ*, January 1991).

Mello-Roos enables a city or county to create community facility districts and levy a special tax, sometimes dubbed a "designer tax" because of the law's flexibility regarding the tax structure.

The legislation's political popularity can be attributed to this flexibility, since not only the tax but the district itself may be drawn in various ways, and boundaries can be created to exclude residents who oppose the tax, making bond approval more likely. For example, when the taxing districts are being formed for educational funding, senior citizens are often excluded because they historically vote against school taxes. The special taxes levied on homeowners are used to pay off the bonds.

At least two-thirds of a district's voters must approve the tax. But the bonanza in Mello-Roos is that if there are fewer than 12 residents in a district, the landowners vote, making Mello-Roos a shoe-in when created on undeveloped land. Mello-Roos bonds are often called "dirt bonds" because at the beginning, when the district is undeveloped, the only security is the land. Public officials have previously cautioned that local governments be particularly careful when creating these districts and disclose all special taxes to potential homeowners. Financial advisers recommend that the land not be burdened with more debt than it can support.

But in early 1990, prompted by fears in the real estate

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market, some experts started to question the safety of Mello-Roos districts on undeveloped land. The danger occurs when the bonds have been sold to finance projects, but the district is unable, because of a slow economy, to attract homeowners who will pay the special taxes. Others envision a nightmare where real estate values fall to the extent that the land is no longer a sufficient security for the bonds and a developer walks away from the project.

By November of 1991, *The Wall Street Journal* had picked up on the concerns and ran a long story headlined "Defaults Seen in California" that predicted trouble in Mello-Roos bonds due to a sluggish economy and soft real estate market. The story — still being talked about months later — raised the specter of Colorado defaults and reported that some of the more speculative California Mello-Roos districts were having trouble making bond payments.

"I'm not saying California is the same as Colorado, but on the other hand there are some disturbing parallels," said David Hitchcock, an expert on Mello-Roos bonds at Standard & Poor's Corporation in New York. S&P is one of three agencies that rate municipal bonds, but it does not rate many Mello-Roos bonds.

Hitchcock said there are similarities between a housing slump in Colorado during the late 1980s and the one that is occurring in California. The slump in Colorado helped prompt many of that state's special districts to collapse. In a special report entitiled "California Special Districts: Colorado Again?" Hitchcock said that problems can happen if Mello-Roos bonds are sold for development on raw land and construction plans are shelved because of a sour economy. He pointed out that, new housing starts in California fell 7 percent in 1989, dropped 30.9 percent in 1990 and were projected to fall 27.6 percent in 1991, by the California Construction Industry Research Board.

But Dean Misczynski, principal consultant with the Senate Office of Research and author of the Mello-Roos law, said that the districts are not any more risky now that they have always been. "The thing I've found least responsible about the reports I've seen is the comparison to Colorado. What's occurring now is trend journalism, where you have East Coast writers bashing California," he said.

Misczynski noted specific differences from Mello-Roos and the Colorado financing. He said that local governments were not involved in selling the bonds, developers were. He also said the Colorado's special-district law stipulates that when a developer is in financial trouble, the special tax could be raised an unlimited amount in order to bail out the developer and make bond payments. Because of this, homeowners received tax bills for astronomical amounts, causing homeowners to move or abandon property — just one reason some bonds defaulted. Bankruptcy courts have since lowered many of those tax rates. Misczynski said Mello-Roos has a maximum tax rate that limits a homeowner's exposure.

Other California underwriters, public officials and bond experts agreed with Misczynski that the recent worries over Mello-Roos bonds may not be warranted. "The people often commenting on Mello-Roos bonds don't know a lot about it," said David E. Hartley, a partner with Stone & Youngberg, a San Francisco-based firm that has underwritten many Mello-Roos bonds. Hartley has decades of experience in California's municipal bonds and currently chairs a state debt commission sub-committee. "There's some disinformation that's being taken too far."

However, while California experts try to calm the waters, the perceived risk in Mello-Roos bonds is driving down Mello-Roos bond prices as investors and California-specific municipal bond funds steer clear. Several big-name funds are unloading Mello-Roos bonds or refusing to buy the debt.

Wall Street is not alone in its concern. The California Debt Advisory Commission — made up of the state treasurer, finance director and legislative and local leaders — released a report in October 1991 pointing out the pitfalls of Mello-Roos. The report called the bonds "inherently risky" and said local governments should go beyond existing legal requirements when structuring Mello-Roos. The study offered guidelines designed to minimize credit risk to local agencies.

Even the state treasurer stepped forward with a special warning.

"With local governments feeling the pressures from Proposition 13, a rapidly growing population and reduced federal funding, officials have been forced to look for creative financing strategies such as Mello-Roos bonds," said treasurer Kathleen Brown. "However, there are risks that must be weighed when relying on Mello-Roos bonds, particularly during the current downturn in the real estate market."

Brown said locals should watch for tax equity, credit quality and overlapping tax rates when structuring Mello-Roos. To ensure tax equity, governments should make sure the special tax amounts matches the benefits that the taxpayer receives. Local officials also should be sure the projects are solid, the developer has plenty of capital and that construction and market risks are evaluated.

Because of the prevalence of Mello-Roos and other assessment districts, Brown said local agencies should take care when creating a Mello-Roos district so that a homeowner is not burdened with excessive overlapping taxes.

But some market participants questioned whether local governments would follow the guidlines. Hitchcock said the report may be the first step toward increased state control over what traditionally has been a flexible local financing tool.

"If local governments at least consider these guidelines as they go forward with Mello-Roos, we will feel successful," said Steve Juarez, executive director of the California Debt Advisory Commission.

Juarez disagreed with Hitchcock, saying the report does not suggest a need for new legislation. "By having local governments increase their guidelines, we may avoid new legislation coming down from the state level," he said.

If Mello-Roos bond issues are going to default in California, it will start to happen early in 1992, experts agreed. Mello-Roos districts to watch are those created on undeveloped land in traditionally high-growth areas such as San Bernardino and Riverside counties, where real estate development may have slowed down.

According to the California Debt Advisory Commission, California was expected to sell nearly $30 billion of long-term and short-term debt last year — only $2 billion from an all-time high of $32 billion in 1985. Most of these bonds are very safe. But for Mello-Roos, the future is unclear.

"We're just waiting to see what will happen," said one underwriter. "It's a classic example to low underwriters doing risky deals. And now that's coming home to roost," he said.

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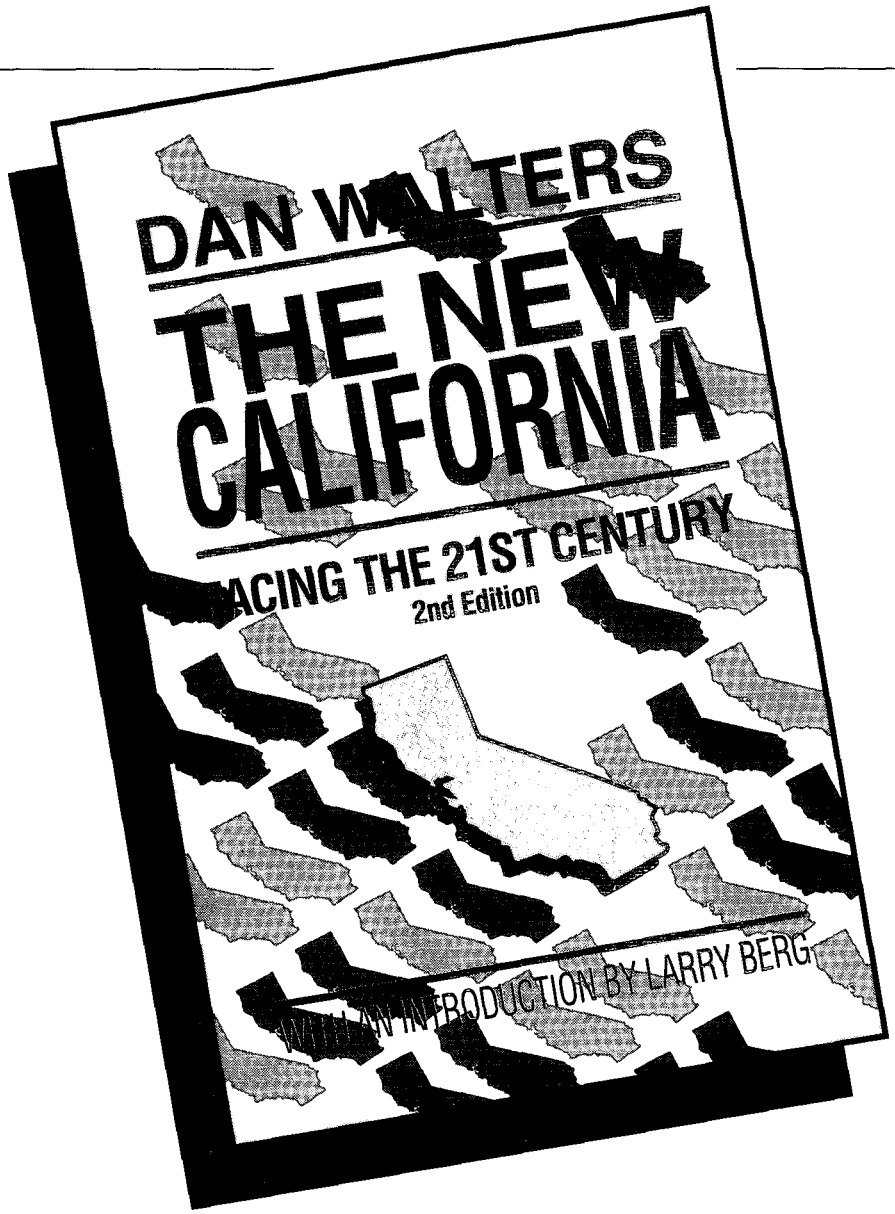

California had scarcely two million citizens in 1909 when Lord James Bryce, British ambassador to the United States, visited the state and asked a prophetic question:

"What will happen when California is filled by 50 millions of people and its valuation is five times what it is now? There will be more people — as many as the country can support — and the real question will be not about making more wealth or having more people, but whether the people will then be happier or better than they have been hitherto or are at this moment."

Eighty-plus years later, California is more than halfway toward that 50-million mark and has become America's most diverse, most populous and most economically, culturally and politically potent state. But without knowing it, Californians are still seeking answers to Lord Bryce's question as they careen toward the 21st Century.

From San Ysidro to Susanville, from Ventura to Volcano, from Moreno Valley to Moraga, no region of the state is being left untouched as California fashions a 21st Century civilization like nothing ever seen on the North American continent: ethnically complex, with distinct socio-economic classes; competitive; technologically sophisticated; older and more harried; and, unless a cadre of new civic and political leadership emerges, a society that loses its communal identity and evolves into a collection of mutually hostile tribes.

California's once-powerful industrial economy, created during the emergency of World War II and later expanded to serve both Cold War and civilian demands, has given way to a post-industrial hybrid economy that rests on multiple bases and resembles that of a major nation more than that of a typical American state.

In a single generation, hundreds of lumber mills, auto and tire factories, steel plants, canneries, railroad yards, shipyards and other basic industries have closed. Of those that survive, many have downgraded their wage structures to meet foreign competition. Deregulation of trucking, telephone service and airlines has made them more competitive but also has forced

Dan Walters is a political columnist for The Sacramento Bee *and author of "The New California." This article is a shortened version of Chapter 1 of the second edition of "The New California," due for publication in February.*

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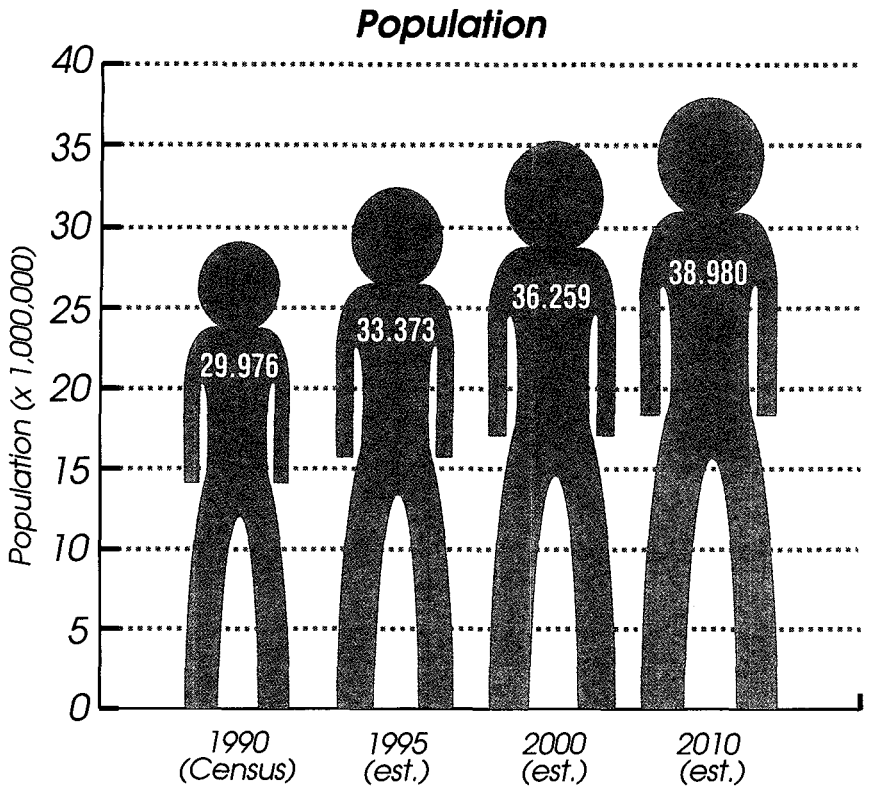

their employees to accept lower wages. And the new industrial jobs that have been created, especially those in high-tech and services, are overwhelmingly non-union, with non-professional wage scales in the sub-$12 per hour range.

At the same time, whole new industries have emerged, based on trade with burgeoning Pacific Rim nations, on highly sophisticated technology and on information; new industries that created three million jobs during the 1980s and allowed California to absorb a record increase in population while lowering its unemployment rate before a severe recession took told in 1990.

Between traditional industry's contraction and new industry's expansion lie the seeds of socio-economic stratification. Opportunities for the children of the postwar industrial middle class have been reduced, or at least become more contrasting. They and the young immigrants who continue to pour into California must either prepare themselves for expanding opportunities in technical, managerial, creative and professional fields or be content with relatively low-paying service industry jobs.

California's work force, therefore, is being squeezed like a tube of toothpaste: an expanding overclass at the top, earning the $40,000-plus salaries, buying the homes, living the California good life; and an exploding underclass at the bottom, ill-educated, ill-served by overburdened social services, struggling to find affordable housing, forgoing medical care and seeing the doors of opportunity become more difficult to open; and an economic and social middle that stagnates or even declines. And it is a change that is punctuated by the state's rapidly evolving ethnic structure, one in which today's minorities will soon become the collective majority. The economic and social differences are likely to become more distinct as California continues to move away from the egalitarian ideal.

Economists Leon Bouvier and Philip Martin, in a mid-1980s peek into California's future for the Washington-based Population Reference Bureau, described that scenario as "the possible emerging of a two-tier economy with Asians and non-Hispanic whites competing for high-status positions while Hispanics and Blacks struggle to get the low-paying service jobs." They noted that since 1970, "employment growth has shifted from high-wage manufacturing and government sectors to the lower-wage trade and service firms that are most likely to hire unskilled immigrants..."

End-of-decade economic data verified their prediction. Between 1982 and 1990, California's manufacturers added about a quarter-million jobs, but the service and trade sectors created nearly two million. Between 1972 and 1989, manufacturing dropped from nearly 21 percent of the state's jobs to about 17 percent. Jobs at the lower end of the scale ($5000 to $15,000 per year) and those at the upper end ($40,000 to $50,000 per year) grew two to three times faster than middle-income jobs ($25,000 to $30,000 per year). Increasingly, California families have achieved or clung to middle-class status only by merging paychecks of two or more workers.

There are strong indications that these trends will continue in the 1990s. The state Employment Development Department estimates that total California employment will increase by nearly one-third between 1987 and 2000, from 11.7 million to 15.4 million jobs, with above-average increases in trade, finance and services, and sub-par growth in manufacturing, transportation, communication, mining and government categories. The Center for the Continuing Study of the California Economy is even more optimistic, seeing employment in the state approach 17.5 million by 2000 with job and personal-income growth rates in the 1990s that are far above those of the nation as a whole and outstripping even population growth.

"This is probably California's last great growth surge," said economist Stephen Levy of the Palo Alto-based economic study center. "It is entirely possible that the state's population, which will go from 30 million to 40 million in 20 years, may never each the 50-million mark." Levy said that lower birth rates should slow California's population growth after 2010.

There is, however, dissent from some economists who believe that California peaked out in the 1980s and now faces a bleak economic future because of its deteriorating infrastructure and a competitive posture vis-a-vis other states and nations. They have noted a seemingly accelerated abandonment of California by major employers, especially manufacturers, who shift or expand plants in other states and nations because of California's above-average operational costs.

George Salem, a banking analyst for Prudential Securities, created a stir in California economic circles in 1991 when he circulated a report suggesting that the state "shows new evidence of structural weakness" and could face the kind of severe economic dislocation

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that struck Massachusetts and Texas during the 1980s.

At the time that Salem delivered his startling verdict, the state was experiencing a severe recession, with unemployment having jumped more than 2 percent since the go-go days of the 1980s. During the first year of the recession, from mid-1990 to mid-1991, the state lost an astonishing 380,000 jobs — roughly a year's employment growth during the expansive years of the 1980s. And despite the recession, which economists said was exacerbated by such localized factors as a record freeze and cutbacks in military procurement spending, California continued to experience huge levels of migration and child birth that drove its population upward by some 800,000 persons a year, thus raising doubts whether the state could continue to absorb newcomers or would face a future of continued economic uncertainty.

At the very least, the recession accelerated the evolution from an industrial to a post-industrial economy and thus the stratification of California society.

And if stratification happens, it may set the stage for a 21st Century political climate that pits haves against have-nots, with the political middle declining along with the economic middle and both major parties being compelled to realign themselves to the new socio-economic reality. Lewis Butler and Bruce Kelley of California Tomorrow, an organization devoted to worrying about California's future, use a harsh term to describe what is happening segregation. This can be avoided, they wrote in 1989, only if people of different classes, colors and cultures live, work and go to school together.

The data of change, gleaned from a variety of public and private sources, is staggering:

- California's population, less than 16 million in 1960, grew by nearly 50 percent to 23.8 million by 1980, hit 30 million by 1990 and is expected to top 36 million by 2000 and climb to more than 40 million by 2010.
- The Anglo population (what demographers call "non-Hispanic white") is virtually stagnant. In fact, the Anglo population may begin to decline before the turn of the century, and a low Anglo birthrate means that its portion of the population is growing older faster than others, with median age already at least 15 years higher than the non-Anglo population.
- Some three-quarters of the near-term population growth and nearly all long-term growth is among Hispanics and Asians. California already is home to more than a third of the Asians who live in the United States, and the proportion of Californians who have Asian ancestry swelled from 4 percent to 10 percent in just a decade, replacing blacks as the state's third-largest major ethnic group.
- The Hispanic population, meanwhile, is being expanded by a high level of legal and illegal immigration from Latin America, mostly Mexico, and by a birthrate that is nearly twice that of Anglos. Demographers expect the continued political unrest and economic chaos in Latin America to push millions of Latino immigrants across a porous border into California, and even economic reform in Mexico will not have a major impact on that trend for years.
- The Black population is relatively stagnant, fixed at under 8 percent of the total; it's not shrinking but grows only at the rate of the overall population.
- Sometime before 2000, perhaps as early as 1996, Anglos will be a minority for the first time — a decade earlier than demographers had expected in the mid-1980s. A generation later, Hispanics and Anglos will be about equal in population, approximately 38 percent each.
- Despite an evening-out of population among the state's large ethnic groups, there are growing disparties in education and economic attainment. Hispanics and Blacks are far more likely to drop out of high school and less likely to obtain college educations than either Anglos or Asians, thereby becoming less able to compete for the well-paying professional and technical jobs that California is continuing to produce.
- With high birthrates among recent immigrants, the overall status of California's children has deteriorated markedly in recent years. A quarter of California's mothers are unwed and disproportionately high numbers of newborn babies suffer from low birth weights, drug addictions and other maladies. And as vaccination rates for children decline, once-conquered childhood diseases such as measles are staging alarming comebacks.
- Some 20 percent of California's 30 million residents lack any kind of health insurance, either private or public. This accounts for 20 percent of the nation's uninsured, even though the state contains just over 12 percent of the American population.

But the signs of change are to be found in more than numbers. They are to be found in the changing California landscape. They are found in such places as Moreno Valley, a small community in the semi-desert of Riverside County, which was the state's fastest-growing county in the 1980s. Moreno Valley just became a city in the mid-1980s and within a few months had a population of more than 100,000, mostly young families. It was graphic evidence of one of the most important social trends of the 1980s: dispersal of the economy and population from coastal enclaves to interior valleys and hills.

That phenomenon was fueled, in part, by the changes in the economy, especially the advent of portable jobs in burgeoning technical and service fields — jobs that do not depend on proximity to raw materials or even to transportation centers and that can be moved out of traditional urban employment centers and into the suburbs, thus allowing workers to move even further into the countryside for more pleasant

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surroundings and less-expensive housing. The move to the interior is evident from Escondido in northern San Diego through San Bernardino and Riverside counties to the Central Valley as far north as Redding.

It is largely, however, a movement of Anglos. And it contributes, as do continued high rates of immigration, to radical social surgery on the face of California's cities. As whites flee the cities, their places are taken by foreign immigrants who pack themselves ever more densely into stocks of housing that are not expanding.

Los Angeles, the new American melting pot, lost 500,000 Anglos between 1970 and 1980 and is headed for a 60 percent Hispanic population by the turn of the century. There are more than 100 separate languages spoken at Los Angeles area schools, 75 of them at Hollywood High School alone. Conversely, San Francisco, once a polyglot, is becoming a Beverly Hills-like enclave of the Anglo-Asian affluent, driving its middle classes to the suburbs and its Blacks across the bay to Oakland by development policies that favor high-income professionals. One-time farm towns of the Central Valley are diversifying their economies and flirting with metropolitan status.

In addition, whole regions of the state, especially those north of the San Francisco-Sacramento axis, have seen their basic industries of timber and agriculture decline and nothing emerge to replace them. The result: economic and social stagnation that forces the young to seek jobs in growth areas.

The growth in and changing composition of California's population during the next 30 to 40 years will put an incredible strain on transportation systems, water supplies, sewage treatment, housing supply, educational facilities — what those in the public policy trade call "infrastructure." The California Economic Development Corporation has warned that without a massive overhaul of transportation policies, traffic congestion will increase by 15 percent a year.

Local officials throughout the state, especially in high-growth areas, already feel the strain and are compelled to take extraordinary steps to deal with it. But as they and state officials seek the billions of dollars needed to build and staff public facilities, they collide with another phenomenon that evolved in 1980s California: resistance to new taxes among voters who are not representative of the diverse new California but carry-overs from an earlier era. At the precise moment that California's political leaders confront a society that grows more complex as it grows numerically, California's voters are numerically stagnant, overwhelmingly white, middle-aged and middle-class, with conservative atttitudes toward taxes first felt with the passage of Proposition 13 in 1978 but still being expressed in the 1990s. The effect of these twin, contradictory pressures is to contribute to the political confusion and deadlock that marked the 1980s.

Politicians fear voter backlash if they propose new government programs, or expand old programs due to the pressures from expanded caseloads. And both the state and local governments have direct restraints on spending imposed by a Proposition 13 aftermath (Proposition 4), approved by voters in 1979 and modified only slightly in 1990.

The Legislature, moreover, has become preoccupied with internal power struggles and a series of image-bending scandals. Both it and the governor of the 1980s, Republican George Deukmejian, seemed disinterested in dealing with the far-reaching public policy issues that dynamic socio-economic change creates. Instead, they played games of political one-upsmanship that led to an explosion of initiative ballot measures that also contributed to the state's political paralysis. As the 1990s dawned, many were openly saying that California may have become ungovernable in traditional terms.

That was what Stu Spencer, a veteran Republican political strategist, told U.S. Senator Pete Wilson when Wilson, fresh off a Senate re-election victory in 1988, began thinking about running for governor in 1990. But Wilson, pressured by state and national Republican leaders to run and keep the Capitol in GOP hands for the all-critical reapportionment that was to follow the 1990 census, decided to run anyway. Wilson defeated Democrat Dianne Feinstein, the former mayor of San Francisco, in the November 1990 election. But the fact that both candidates came from the political middle indicated that voters yearned for new leadership.

Wilson came into office in 1991 determined to make California's government work again by shifting emphasis from remedial to preventive in education and social services and by proposing a first-ever statewide growth-management program aimed at bringing some order to the state's chaotic development patterns. But Wilson faced a monstrous state budget crisis born of recession and of a decade of ignoring the conflict between anti-tax fever and huge levels of population growth. He faced, too, a Legislature that was beset by scandal and torn apart by factional and partisan infighting.

As the traditional forms of governance lock up, what may be emerging is a new form of quasi-public, quasi-private governance in which local economic and civic interests, working in concert with local governments, create new vehicles for the improvement of infrastructure. In Santa Clara County, for example, the high-tech industry supported a successful drive to persuade local voters to raise sales taxes to finance better highways after it became apparent that more aid would not be forthcoming from Sacramento. Dozens of other counties followed suit and, in a rare major policy action in the Capitol, Deukmejian and legislators agreed on a comprehensive transportation-financing plan even-

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tually enacted by voters in 1990.

Bond issues, lease-purchase contracts and other forms of creative financing have been used by local officials to finance infrastructure improvements.

But as with other aspects of California culture, it is widening the gap between the haves and the have-nots and weakening the bonds of a broader community. Affluent, growing areas can afford to make such improvements while poor areas with stagnant economies cannot. In 21st Century California, what kind of highways serve motorists, how crowded the schools, how dependable the water supply may depend on where one lives.

The demands of affluent parents for better elementary and high school education got results in Sacramento. But California has continued to lag behind in its overall educational performance, especially in services to the non-affluent, non-Anglo and non-English speakers, as it struggled to cope with record growth in school enrollment. By 1990, the average Latino adult in California had three fewer years of education than Anglo, Asian or Black adults.

Dropout rates among minorities showed little improvement in the 1980s. The community college system, once California's traditional educational ladder for the economically disadvantaged, drifted in the 1980s, a victim of post-Proposition 13 budget restraints and a seeming lack of purpose. Finally, in the late 1980s, there was an effort to revive the system and redirect it back to its original purpose, but no one was certain the reforms would work.

Although California's minority population is growing faster than the Anglo population, the state's public and private universities and colleges remain bastions of Anglo and Asian aspirations. Hispanics, now more than 25 percent of the population, represented less than 10 percent of the undergraduate enrollment at the University of California in 1988, while Blacks were less than 5 percent. Asians were nearly 30 percent of UC's undergraduate enrollment — three times their proportion of the overall population.

California's public schools, anticipating the change that will occur in the larger population a decade years later, acquired a non-Anglo student population in the late 1980s even as they absorbed growth rates that approached 200,000 a year

But the public school system is producing widely disparate results.

According to the California Postsecondary Education System, only 3.6 percent of 1985's Black high school graduates and 4.9 percent of Hispanic high school graduates were eligible for University of California admission; 13 percent of Anglo graduates and 26 percent of Asians were qualified. Asians, even those who only recently migrated from Southeast Asia, are doing very well in the state's schools — a by-product, sociologists believe, of the Asian cultural impetus to excel that may be missing from other minorities.

The high level of Asian education and economic achievement, markedly above those of the population as a whole, has led many demographers to see them as part of an Anglo-Asian overclass that will dominate California's two-tier society of the 21st Century.

And if the elementary and high schools become dominated by Hispanic and Black students while an aging and stagnant Anglo population produces relatively few school-age children — and sends many of them to private schools — it is questionable whether the overclass will be willing to invest the money in public education. One poll taken for the California Teachers Association indicates that older, white voters are less supportive of public education that other groups; by one estimate, fewer than 20 percent of California voters are parents of public school students and the percentage is declining.

Some Hispanic and Black leaders fear that public education, and especially programs geared to the needs of their children, will be neglected in the 21st Century by a dominant class that has little direct interest in it. Indeed, some see Proposition 13 and its anti-government, anti-tax aftershocks as the first indications of growing disinterest.

Because of myriad pressures, California's political structure in the 1980s seemed incapable of dealing with the change. With professionalization of the Legislature and rising partisanship, the Capitol in the 1980s evolved into a place where the petty concerns of internal politics came to dominate the more pressing needs of the real world. In the largest context, political leaders could not simultaneously meet the needs of the state's large and diverse population and obey the mandates of its politically active and somewhat conservative middle and upper-middle classes.

That tension, which increased steadily during the decade, resulted in an explosion of ballot measures whose fate, both positive and negative, did little to clarify the situation. Voters demonstrated their disgust in 1990 by passing a tight term-limit initiative (Proposition 140).

If California is evolving into a two-tier society as present trends indicate, it will have vast political consequences. There seems to be an overall swing toward conservatism and the Republican Party in California already. As the state was voting overwhelmingly for President Ronald Reagan's re-election in 1984, for example, it also was giving a plurality of its votes to Republican congressional candidates — despite the fact that a partisan congressional redistricting plan enacted in 1982 handed firm control of the congressional delegation to Democrats.

Pollster Mervin Field reported in 1985 that his survey of voter identification shows the GOP having drawn even with the Democrats for the first time in recent history, a trend that held firm as the 1980s evolved into the 1990s. Demo-

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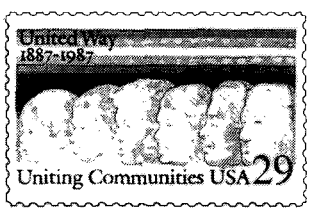

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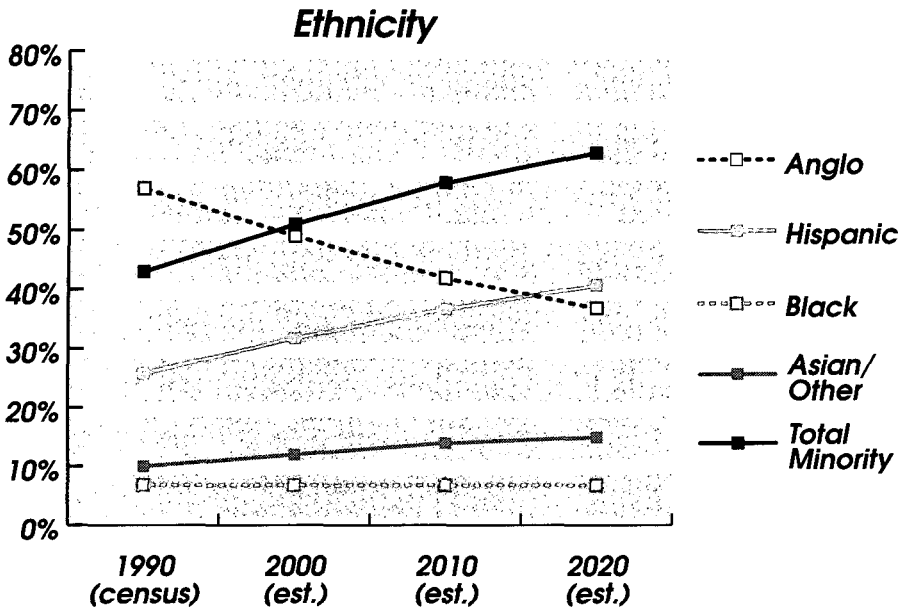

cratic voter registration, which approached 60 percent in the mid-1970s, slipped below 50 percent for the first time in more than 50 years.

It seems that Anglo voters and middle- to upper-income Asians and Hispanics are identifying more strongly with the Republican Party. And while they may be outnumbered in the overall population, they are most likely to register and to vote.

Lower-income Hispanics and Asians are not participating in California's political process. Asians have the overall lowest levels of political activity of any ethnic group; by 1990, they were 10 percent of the state's population but scarcely 2 percent to 3 percent of the dependable voters. Blacks are more politically active — and overwhelmingly Democratic — but are a stagnant or even declining portion of the state's population. The industrial middle class, the traditional backbone of the Democratic Party, is shrinking because of economic changes.

These trends create a huge dilemma for the Democratic Party. To appeal to the overclass, it must move its ideological identity to the right, putting less stress on providing government programs to the poor. In doing so, it turns its back on some of its most active constituencies and on the liberal ideological bent of its current leaders. But to organize the unorganized runs the risk of further alienating Anglo, middle-income voters and faces enormous barriers of language, non-citizenship and a lack of political tradition among newly arrived immigrants.

Earlier waves of European immigrants — Italians, Irish, Poles, Jews — became politically influential in such places as New York and Chicago because those political systems were heavy with patronage. Politicians could promise something specific in return for their votes. But local offices in California are non-partisan, and virtually all patronage was done away with by various reform movements that created strong civil service systems. And constitutional constraints make it almost impossible to launch vast new government programs. If California politicians try to organize the state's underclass, therefore, they will be hard-put to offer tangible rewards — jobs, programs or status.

Through the 1980s, the state's Democrats have preserved their control over the Legislature and the state's congressional delegation by artificial means such as gerrymandered districts (that also froze out minority aspirants as they preserved Anglo Democrats in office) and voter registration laws that create a false picture of partisan alignment by leaving non-voters on the rolls.

With its series of losses in top-of-the-ticket contests, the Democratic Party continues to debate its future without coming to a conclusion. Some suggest that the party move to the populist/left with new organizational drives aimed at minorities and dispossessed Anglos; other party leaders believe that it must become more centrist and appeal to defecting middle-class voters. As Democrats debate, there are unmistakable signs that the long-term drift to the right in California politics will make itself fully felt in the 1990s.

The most liklely political scenario for California in the 1990s, and at least the early years of the 21st century, is for dominance by an affluent, politically active overclass using its position to protect its privileges against the larger but weaker underclass. It's a social situation that benefits the Republican Party, which has undergone a quiet evolution into a decidedly more moderate institution as it has expanded its reach. That shift is personified by Governor Wilson, a one-time party pariah for his centrist views. If the Wilsonite philosophy — tough on crime, conservative on taxes and spending; liberal on abortion and environmental issues — becomes the dominant image of the Republican Party, Democrats may be doomed to minority party status in the nation's largest state.

Evolving political power, however, is just one aspect, and probably not the most important one, of a unique culture that continually redefines itself as it expands and diversifies. Clearly, some of California's golden sheen has been tarnished by its social and economic complexities: tangled freeways, high housing prices, rising fear of crime and congested public facilities. A 1989 Field Institute poll revealed a sharp drop in Californians' sense of pride about living in the state. In previous polls, about 75 percent of those responding had rated California "one of the best places to live." But the 1989 poll saw that drop to under 60 percent.

There is some evidence that California's crushing social and economic problems are sinking in on both the state's civic leadership and the larger population. Cadres of civic leaders have been formed, both statewide and at regional and local levels, to explore workable approaches to such pithy issues as regional government, education, water, growth and, most of all, rising levels of social friction.

"California is just entering what may be its most crucial decades since the Mexican War ended in the 1840s," Bouvier and Martin conclude in their study of the state. "The state will never be the same; yet, as with the nation, it remains unfinished. ... The important question is: How will the state adjust to these demographic changes and all their repercussions?"

It's a question whose answer, if anything, is becoming more elusive.

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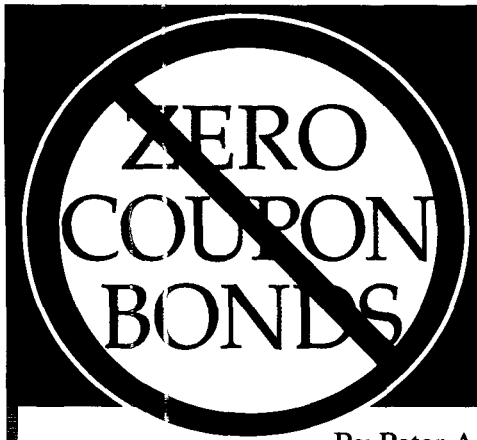

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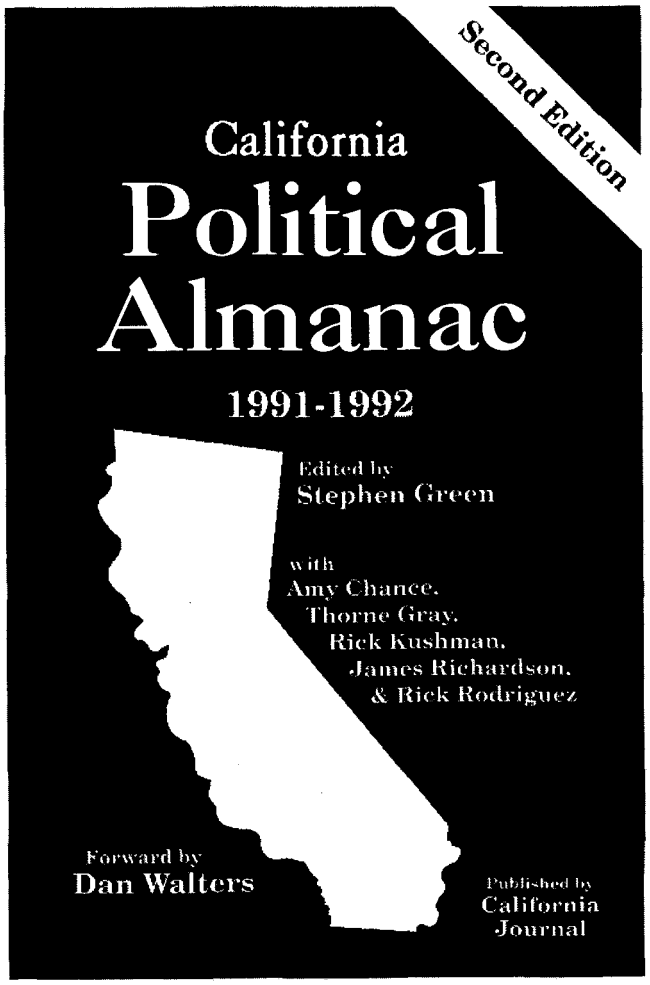

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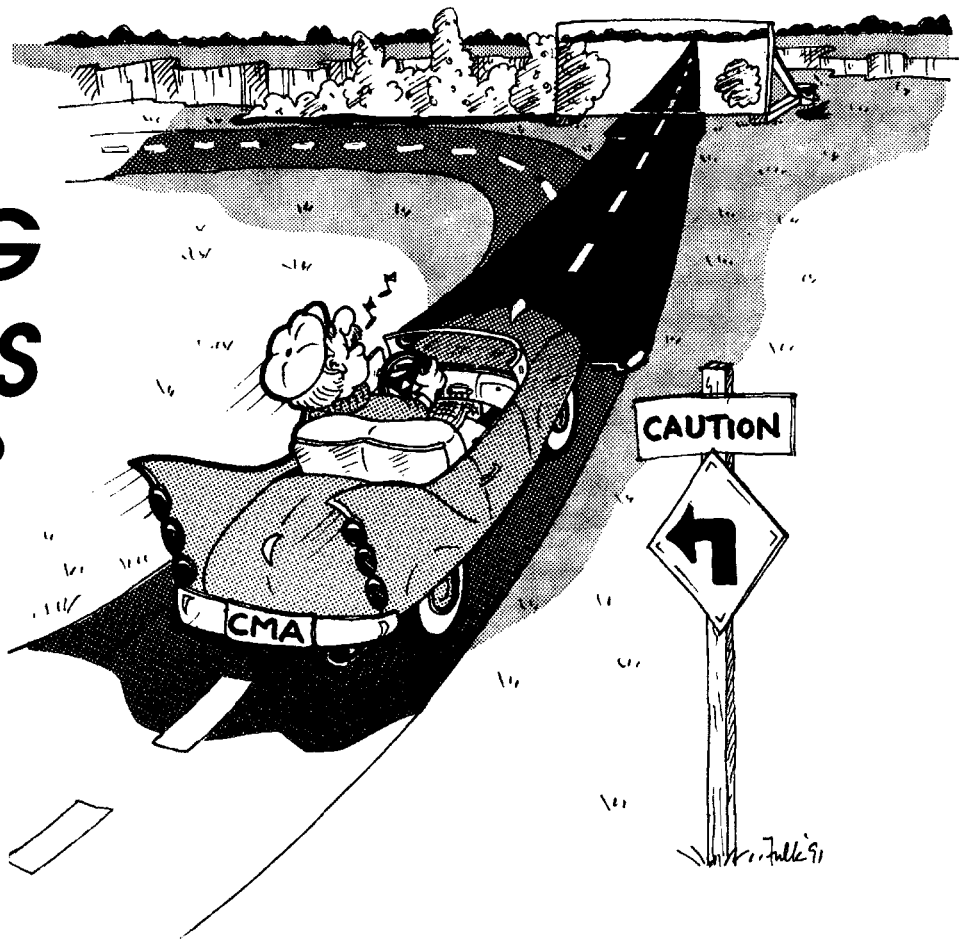

By Bill Ainsworth

In the past, there have been campaigns against candidates. And campaigns against initiatives and other assorted ballot measures. And campaigns against reapportionment plans, city-county mergers, sales-tax increases, *ad nauseum*.

And now comes the latest wrinkle — the campaign against a campaign.

As far as voters are concerned, this new kind of campaign differs from its nearest cousin — the campaign against an initiative, which is noisy and fought out in full view of the public. The campaign against a campaign, on the other hand, is like aerial dogfights between the Royal Air Force and the German Lutwaffe during the Battle of Britain: The bulk of the combat takes place above the clouds and beyond the reach of those on the ground.

The campaign against a campaign is a new and more sophisticated strategy in the ever-escalating war between well-heeled interest groups, a campaign meant to convince one group or another to abort an initiative before it can even get it on the ballot.

Does it work? Just ask an alliance of health insurers and small business groups. Last summer, their pre-emptive efforts — their campaign against a campaign — helped convince the influential and wealthy California Medical Association to abandon plans to put a universal health-insurance initiative on the November 1992 ballot. The alliance, known as the Consumer Health Insurance Coalition and funded by health insurers, engaged in a $300,000 lobbying effort whose sole purpose was to intimidate the CMA and scare away its potential allies.

The coalition took polls, conducted focus groups, sponsored letter-writing campaigns and hired a public-relations firm to convey the message that any health-care solution requiring tax increases would be defeated at the polls. In addition, it warned trade associations that joining a doctor-sponsored plan would be costly and futile.

"We worked very hard to isolate the CMA," said Richard Claussen of Goodard/Claussen Campaigns, which ran the campaign. "That was a significant factor in their decision. ... There's never been a campaign like this before."

CMA officials denied that the unusual lobbying effort had any effect on their decision. "We knew all along that there would be strong opposition," said Dr. Howard Lang, president of the CMA.

The medical association dropped its plan, Lang said, because it failed to find more allies and because the economy had gone sour. His announcement came three days after the state said it was facing a $3 billion deficit due to the recession.

The CMA's decision leaves only one possible health-care initiative proposal for the November 1992 ballot — a measure calling on the Legislature to extend health insurance to all the state's uninsured residents. The measure is backed

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Bill Ainsworth covers the Capitol for The Recorder, *a San Francisco-based legal daily.*

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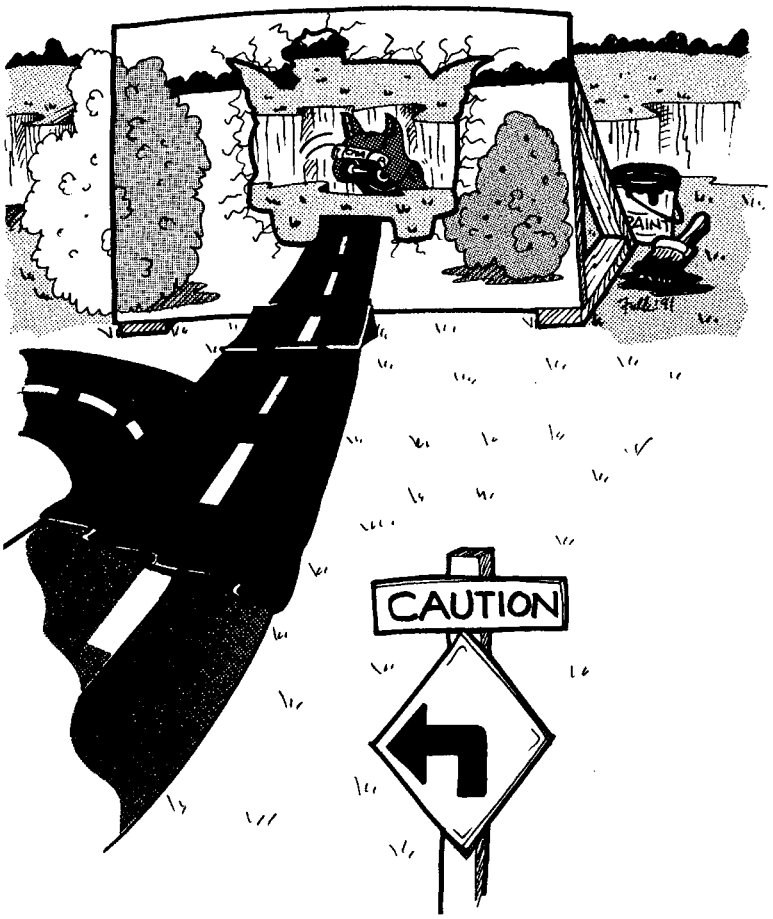

by Michael Weinstein, who raises money for Los Angeles-based AIDS treatment centers. Political observers, however, believe his effort has little chance for success.

That leaves virtually no hope of ballot relief for a health-care system on the verge of crisis. Chronic underfunding of public health care has forced hospitals and trauma centers around the state to close, while the spiraling cost of health insurance has made it more difficult for people to obtain coverage. More than 20 percent of the state's residents do not have health insurance.

It would seem, therefore, that the CMA's attempt would fill some need — if nothing more than to put the entire issue of health care before voters. But it was not to be, and not everyone is happy about CMA's default.

Maryann O'Sullivan, director of Health Access, a labor and consumer coalition, called the campaign against the CMA's initiative "scandalous."

"The group that organized this campaign of opposition is opposing everything," she said. "They aren't doing anything for the six million people without health insurance."

So far the Legislature hasn't done anything, either. The CMA turned to the initiative process out of frustration with state lawmakers. For the past six years, the health interest groups have fought to a stalemate at the Capitol. California Common Cause says the reason is simple: money. Last month, it released a study showing that medical industry political-action committees have donated $23.1 million to state candidates over the past 10 years.

"The medical industry PACs create policy paralysis on health-care issues," said Lisa Foster, executive director.

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"They limit legislative debate and constrain possible solutions because no one is willing to oppose these PACs and risk the loss of their campaign contributions."

The major players — doctors, health insurers, small business, and union and consumer groups — have all been able to block bills they oppose in the Legislature. At the same time, no group has been able to get major changes approved.

Each of the major interest groups has a different agenda. Physicians, for example, want to broaden the existing system, with more money for Medi-Cal and mandatory health insurance for everyone. They say they have been forced to bear the burden of treating the poor.

"There's been a major cost shift in health care," said Ralph Thomas, a spokesman for the CMA. "The private sector pays what the government is not paying."

The doctors' initiative would have set up a $125 basic health insurance policy. Employers would have paid 75 per-cent of the costs, with workers paying the remaining 25 per-cent. That policy would have cost $8 billion in additional state spending on health, including a $2 billion increase in taxes. Some of the money would go towards subsidies for low-income workers and small firms. Over six years, the plan would have extended health care to all of the uninsured, said Carol Lee, associate director of governmental affairs for the medical association.

To fund its proposal, the CMA had sought a sales-tax increase. But when the Legislature raised sales taxes to close the 1991-92 budget deficit, the CMA dropped the idea of a sales-tax increase and began searching for a new source of funding, Lee said. By the time it dropped the plan, the medical association had not yet found that source.

The CMA had begun planning for its ambitious initiative almost two years in advance. Last year, its conference of delegates voted to spend $1.5 million on a signature-gathering campaign if the political atmosphere was judged favorable and if the CMA could line up allies, said Eugene Ogrod, vice chairman of the association.

Doctors also might have been hoping that the mere threat of an initiative would put pressure on the Legislature to pass its proposal. But the legislation failed.

Meanwhile, the early warning gave industry leaders extra time to plan an opposition strategy.

In the past, when dealing with initiative proposals it opposed, business has waited to begin its campaign until the measure qualified for the ballot. Only 31 percent of the proposals turned in to the secretary of state's office succeed in gathering the signatures needed to qualify.

But most groups lack the power and the money of the CMA. With its 40,000 affluent members, the CMA has long been a giant political force. Its political action committee is usually the single largest campaign donor in the state. This clout made opponents of the medical association's initiative take notice.

In April, Goodard/Claussen proposed the unusual early lobbying strategy to its health-insurer clients. Four important clients — the Health Insurance Association of America, the Association of California Life Insurance Companies, Aetna and Travelers Insurance — gave it the go-ahead, determining that they had nothing to lose.

"We wanted to avoid a costly ballot fight," said Martyn Hopper, state director of the National Federation of Small Business, which later joined the anti-CMA campaign. Since the strategy worked, industry avoided a bruising ballot fight in November for a fraction of the estimated $7 million to $8 million it would have cost to run a full-scale opposition campaign.

Even if the strategy had failed, CMA opponents would have gained a head start in organizing their coalition.

This task of organizing proved difficult at times. Mistrust between small business and the insurance industry prompted a rivalry within the opposition camp. Several important small business associations decided against joining with the insurance industry because they feared that insurers might eventually agree to mandatory insurance. With the economy in a recession, owners of small businesses worried that any mandated insurance would put many of them out of business.

"This issue represents an absolute threat to our members," said Jo-Linda Thompson, lobbyist for the California Restaurant Association.

In July, the restaurant association, along with retailers and hotel and motel owners, formed an opposition group separate from the insurers' coalition. Called Health Coalition '92, it hired the public-relations firm of PBN at $5000 to $7000 a month to begin organizing potential opponents to the CMA's initiative.

Despite this split, however, the employers' campaign and the much larger campaign by the insurance industry complemented each other. And had the CMA actually gone full bore for its initiative, the two opposition groups probably would have combined forces for the November campaign.

As the opposition gathered its forces, the CMA announced in August that its initiative was a *fait accompli,*

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causing the insurance industry's coalition to swing into action. Its members visited editorial boards, produced campaign brochures, disseminated press releases and set up a phone bank to gather opposition. The coalition also hired an attorney to write up a possible counter initiative.

As part of the campaign, the insurers sent mailgrams to the CMA and other trade associations. One mailgram warned the California Association of Hospitals and Health Systems against joining the doctors.

"The public will be extremely skeptical of such a measure, particularly given the broad and aggressive opposition it will generate," the mailgram cautioned. "Millions will be spent on a battle that will almost certainly result in the measure being defeated."

Undaunted, the CMA continued trying to enlist allies in its cause. In September, the association began talks with a coalition of 170 consumer, union and church groups called Health Access. Health Access favors a Canadian-style system that would extend coverage to all, while reducing administrative costs by eliminating most private insurance. This plan would make most doctors state employees. Not surprisingly, it has generated fierce opposition from both physicians and insurance companies.

In the end, the doctors could not overcome their differences with the consumer/labor coalition. Health Access opposed pouring more money into what it considered a bankrupt system, while the doctors could not agree to a state-run health system.

Left with only three allies — Kaiser Permanente, the California Association of County Supervisors and the California Association of Hospitals and Health Systems — the CMA executive committee voted on October 22nd to drop its initiative.

"The lack of a consensus coupled with a recession and the state's gloomy economic picture convinced us not to go forward," Lang told reporters at a news conference.

Although the CMA proposal is dead, the early lobbying strategy is likely to live on as a result of this success, insurance lobbyists said. Clayton Jackson, whose firm was involved in the lobbying effort, said he believes the campaign was most successful at keeping allies away from the CMA.

"The CMA's an experienced, wealthy, tough operation. It's hard to influence them directly," Jackson said. "What you're doing here is influencing the environment of a decision-maker as opposed to influencing the decision-maker directly."

Jackson and other lobbyists believe the strategy will be used again, though they caution that it will not be appropriate for every initiative battle. "We're going to see more and more efforts to shape the political environment," Jackson said.

O'Sullivan of Health Access agreed. If Health Access decides to go ahead with its universal health care initiative, the group expects to face a similar lobbying campaign. "We're talking about moving billions of dollars around. There are huge vested interests that are doing quite well under the current system," O'Sullivan said. "I don't think they will hesitate to spend money up front against an initiative they don't like."

In the meantime, the problems in the health-care system are expected to get worse.

"This problem isn't going to go away," said the CMA's Lee. "There are still six million Californians suffering."

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California Government & Politics ANNUAL 1991-92

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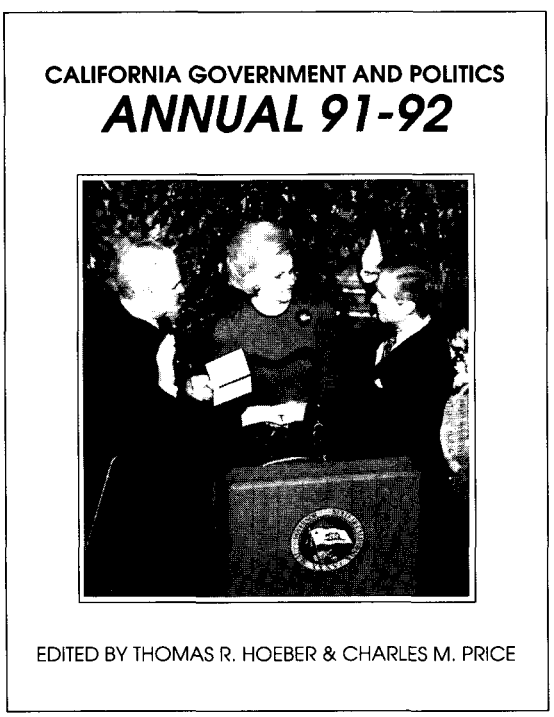

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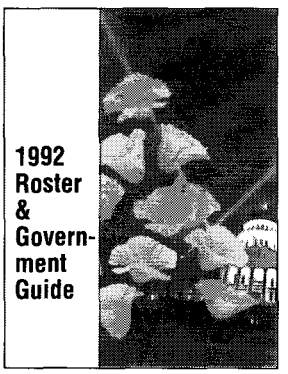
***California Journal's* best-selling** publication, the **Roster and Government Guide** is being completely revised for 1992. It will be included free in the February issue. The Roster is 8 1/2 x 11", 28 pages long and contains the name, address, telephone number, top staff and district offices of every member of the Assembly, state Senate, and Congress plus Constitutional officers, state departments and boards. More than 170 photos are included of all elected and top appointed officials, plus the legislative process chart, legislative committee memberships and more.



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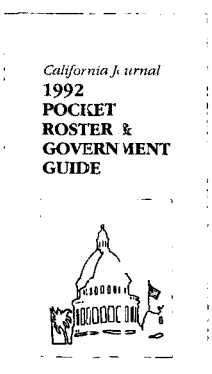

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WASHINGTON PERSPECTIVE

By LARRY LIEBERT

Alan Cranston

"I pledge to the people of California my best efforts for them in the 13 months left of my time in the Senate." Democratic Senator Alan Cranston offered that promise November 20th, as the Senate Ethics Committee presented to the full Senate its condemnation of the Californian's "improper and repugnant" conduct.

BUT HOW MUCH CAN CRANSTON really accomplish in his final year before retirement? Although he may enjoy lingering friendship — and sympathy — from some liberal Democrats, other senators may want little to do with a colleague who has been branded a pariah for his transgressions in intervening with regulators on behalf of his political bankroller, then-savings and loan tycoon Charles Keating Jr.

Congress prefers its ethical embarrassments to vanish without a fuss. That was demonstrated by the praise that Democrats lavished on House Majority Whip Tony Coelho of Merced when he stepped down rather than fight ethics allegations in 1989.

And some conservative Republicans are still stewing that Cranston in effect pulled a fast one on the ethics committee. In a plea bargain, he formally accepted its condemnation in return for being spared a vote of censure by the full Senate. But Cranston immediately turned around and denounced the committee, tarring his Senate colleagues in the process by arguing that many of them had been far more blatant than him in intervening on behalf of fatcats. It also remains uncertain what Cranston still hopes to accomplish as a senator. One legacy he would clearly treasure would be enactment of legislation granting environmental protection to vast stretches of the California desert. After Cranston failed repeatedly to get such a bill through the Senate in past years, the House passed a version of it in November. Action by the full Senate may depend on forging a compromise with Republican Senator John Seymour.

Cranston's mind may also be on other matters. On the day Congress adjourned for the year, Seymour threw up a flurry of procedural objections until the Senate assuaged him by approving a drought relief bill for California. By contrast, Cranston put all of his energy and passion into winning Senate passage of a bill calling for a redesign of the flip side of coins. That worthy cause is a pet project of a New York socialite whom Cranston reportedly has dated.

A more grave uncertainty is whether Cranston's health will permit him to serve the remaining year of his term. The senator appeared to bounce back after treatment for prostate cancer early this year. But the ethics committee concluded that Cranston "is in poor health, which finding is based on expert and competent medical opinion after an extensive medical investigation."

The committee's report was presented to the full Senate in an extraordinary performance of ethical kabuki theater, one that proved grimly unsatisfying to all concerned.

In his Alabama twang, Democratic Senator Howell Heflin, a great bullfrog of a man, announced that the ethics committee, "on behalf of" the full Senate, had decided to "strongly and severely reprimand Senator Alan Cranston."

Heflin noted that ethics committee members "unanimously concluded that commonly understood and well established norms of behavior in the Senate do not permit linkage between official actions and fund raising. The committee also determined that Senator Cranston's conduct substantially linked his official actions and his fund raising, in violation of this established Senate norm." But that's where Heflin's presentation ran into trouble. Although Cranston's behavior may have been blatant, Heflin acknowledged that the ethical line is blurry at best. "I am reminded of the well-known words of Supreme Court Justice Potter Stewart when he wrote about the meaning of obscenity," Heflin said. "The justice noted that although he was not able to define obscenity with specificity, he knew it when he saw it."

When Cranston rose to respond, he was the soul of contrition — for about 30 seconds. "I rise with deep remorse in my heart to accept the reprimand of the committee," he began. "I deeply regret the pain all this has caused my family, my friends and my supporters, my constituents."

But he quickly veered into a bitter condemnation of the committee. Denying that he had violated the Senate's ethical norms, Cranston said bluntly, "There are no such established norms of behavior in the Senate. There is no precedent, and there is no rule establishing that it is unethical for a senator to engage in legitimate constituent service on behalf of a constituent because it was close in time to a lawful contribution to the senator's campaign or to a charity that the senator supports."

Cranston said he had gathered evidence "that I am far from being the only senator to do what I have done .... to demonstrate to the Senate and to the nation, through example after example of comparable conduct, that my behavior did not violate established norms." Cranston did not name names, but he asked, "Since I have been singled out for a reprimand on access today, who among you can be sure you will not be singled out for a reprimand on access tomorrow? Here, but for the grace of God, stand you. There is only one way out: Get money out of politics. Enact public financing."

ENRAGED BY CRANSTON'S UNAPOLOGETIC apology, Senator Warren Rudman of New Hampshire, the ethics committee's senior Republican, rose to describe the Californian's statement as "arrogant, unrepentant and a smear on this institution. Everybody does NOT do it.

"For the Senator from California to rise and give a speech on this floor, after accepting this admonition, this serious reprimand ... and to blame it on campaign finance and 'everybody does it' and 'you should all be in fear of your lives from the ethics committee' is poppycock."

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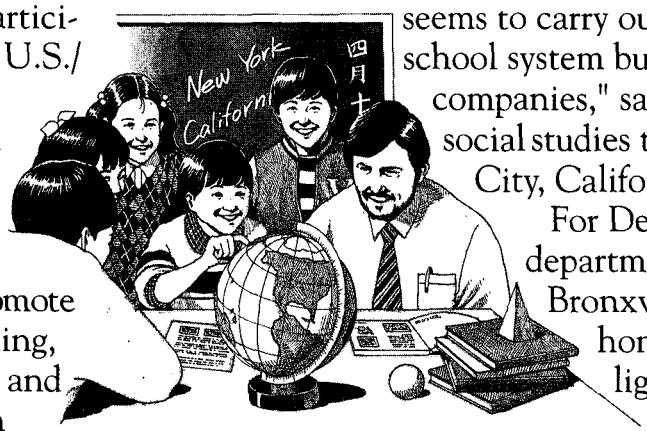
Japan and America: Where the Twain Meet

"Oh, East is East, and West is West, and never the twain shall meet," Kipling wrote long ago, and even today that saying sums up the feelings of many Americans and Japanese toward each other. But William Brinker, a high school social studies teacher from Farmington Hills, Michigan, disagrees. "The gulf between our cultures exists, but it can be bridged. We just have to work harder at understanding one another."

Brinker was a participant in the annual U.S./Japan Teachers Exchange Program sponsored by Hitachi. Now in its fourth year, this exchange helps promote mutual understanding, cultural awareness, and friendship between our societies on a personal level.



Since 1987, the program has sponsored the visits of 16 American teachers to Japan and five Japanese to the United States. Last year saw the largest exchange so far: four American and three Japanese teachers. For three weeks, they toured the sites, taught children, and lived in the homes of their hosts. For most, it was their first direct exposure to the culture they had so often taught about. Even for Brinker, who had spent time in Japan 36 years ago as a serviceman, the experience was eye-opening. "I came away with a much better understanding of the Japanese people," he says.

As teachers, the American visitors were struck by the way Japanese parents support the school system and the respect students show in the classroom. "The support and love of the family seems to carry out not only in the school system but also into their companies," says Greg Alvarado, a social studies teacher from Daly City, California.

For Delia Grogan-Selby, a department chairperson from Bronxville, New York, the home stay was a highlight of her visit. "I felt like I had parachuted into my own family, but it was Japan," she says.

Hitachi is proud to sponsor the U.S./Japan Teachers Exchange Program. We believe its positive impact will multiply as returning teachers share their personal experiences with students, colleagues, and friends at home.

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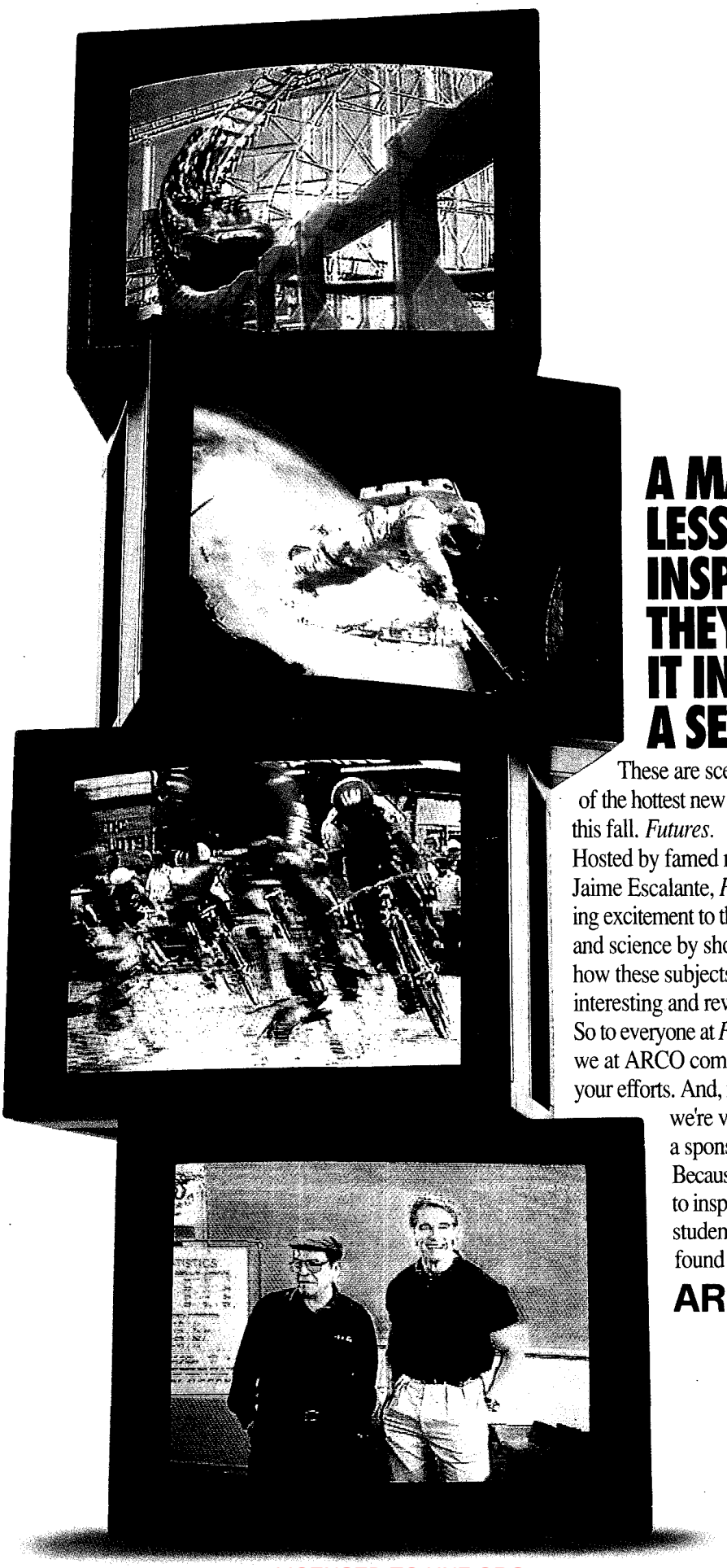

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